

STATEMENT OF ENVIRONMENTAL EFFECTS

**DEMOLITION OF ALL EXISTING
STRUCTURES INCLUDING VEGETATION
REMOVAL, PROPOSED LOT
CONSOLIDATION, AND PROPOSED
CENTRE-BASED CHILDCARE FACILITY**

**36-38 MAITLAND STREET, MUSWELLBROOK,
NSW, 2333
(LOT 7, DP1098460)
(LOT 8, DP6758)**

Jordan Long Town Planner PO Box 107 Clarence Town, NSW, 2321		Phone: 0475 713 934 Email: jordan@perceptionplanning.com.au		
PP Reference		J003470		
Prepared for (client)		Rohit Mahajan		
Document Versions and Control				
Statement of Environmental Effects, 36-38 Maitland St, Muswellbrook, NSW, 2333				
Version	Date	PP ref	Author	Reviewed by
1 (draft)	02/02/2024	SEE_36-38 Maitland St, Muswellbrook, NSW, 2333_V1	JL	ED
2 (Lodge)	05/02/2024	SEE_36-38 Maitland St, Muswellbrook, NSW, 2333_V2	JL	ED/Client
Disclaimer: <p>This document may only be used for the purpose for which it was commissioned and in accordance with the contract between Perception Planning and the client. The scope of services by defined in consultation with the client by time and budgetary constraints imposed by the client, and the availability of reports and other data of the site. Changes to information, legislation and schedule are made on an ongoing basis and readers should obtain up to date information.</p> <p>Perception Planning accepts no liability or responsibility whatsoever for or in respect of any use of or reliance upon this report and its supporting material by any third party. Information provided is not identified to be suitable for a site-specific assessment or legal advice in relation to any matter. Unauthorised use of this report in any form is prohibited.</p>				

EXECUTIVE SUMMARY

Perception Planning Pty Ltd has been engaged by Rohit Mahajan (the client) to prepare a Statement of Environmental Effects (SEE) for demolition of all existing structures including vegetation removal, proposed lot consolidation, and proposed centre-based childcare facility at 36-38 Maitland St, Muswellbrook, NSW, 2333 (LOT: 7 DP1098460 and LOT: 8 DP6758) (**‘the site’**).

The site is located within the Muswellbrook Local Government Area (LGA) and is zoned R1 – General Residential under the Muswellbrook Local Environmental Plan 2009 (the LEP). The development is permissible with consent within the R1 Zone.

The proposed development will consist of the following elements:

- Consolidation of 36 and 38 Maitland Street.
- Demolition of all existing structures including vegetation removal on both sites.
- Construction of childcare centre consisting of main building, outdoor play area, carparking, and landscaping.

The proposed development is intended to take advantage of its location within an existing residential area, with public transport readily available to the site including bus stops and the Muswellbrook Train Station located within walking distance. The proximity of the site to the town centre of Muswellbrook, nearby Muswellbrook South Public School, and employment areas makes it advantageously positioned for the convenience of residents and employees of the locality.

The development is permissible with consent under the LEP. It is considered that the proposed pre-school:

- Conforms with planning and design guidelines specified by the Muswellbrook LEP 2009 and Muswellbrook Development Control Plan 2009;
- Is consistent with the Childcare Planning Guidelines 2017;
- Will facilitate the provision of accessible, quality childcare in a location that is convenient for residents and workers in the area; and
- Will not have any significant adverse impacts on the environmental or scenic qualities of the area.

This SoEE will expand on those matters that have been summarised above to assist Council in completing a detailed assessment of the proposal development.

We encourage Council to contact us should they have any questions or if any of these matters require clarification.

TERMS AND ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
BDAR	Biodiversity Development Assessment Report
EPA	Environment Protection Authority
EP&A Act	Environmental Planning & Assessment Act 1979
EPI	Environmental Planning Instrument
DA	Development Application
DCP	Development Control Plan
LGA	Local Government Area
PSI	Preliminary Site Investigation
SEPP	State Environmental Planning Policy
SEE	Statement of Environmental Effects

LIST OF FIGURES/TABLES

Table 1 - Integrated development	19
Figure 1 - Locality Map (NSW Planning Portal 2023)	11
Figure 2 - Site Plan (Sorensen Design 2024)	15
Figure 3 – Floorplan and Section (Sorensen Design 2024).....	16
Figure 4 - Elevations (Sorensen Design 2024)	17
Figure 5 - Landscape Plan (Studio 26 Urban Design 2024)	18
Figure 6 - Biodiversity Values (Biodiversity Values Map and Threshold Tool 2024)	22
Figure 7 - Road Network Classifications (Transport for NSW 2024)	23
Figure 8 - Road Network Classifications (Transport for NSW 2024)	26
Figure 9 - Flood Hazard Mapping (Muswellbrook Shire Council Flood Certificate 2023)	30

PLANS AND SUPPORTING DOCUMENTATION

This SEE is supported by the following plans and documentation:

Appendix	Document	Prepared by	Reference
1.	EP&A Regulation Compliance Table	Perception Planning	J003470 02/02/2024
2.	DCP Compliance Table and SEPP Review	Perception Planning	J003470 02/02/2024
3.	Certificates of Title	NSW Land Registry	7/1098460 8/6758
4.	Deposited Plans	NSW Land Registry	7/1098460 8/6758
5.	AHIMS Search Results	AHIMS	29/01/2024
6.	BYDA Search Results	BYDA	29/01/2024
7.	Flood Certificates	Muswellbrook Shire Council	24/08/2022
8.	Survey	MM Hyndes Bailey and Co	26/09/2022 Ref: 222273
9.	Architectural Plans	Sorensen Design	12/10/2022 Ref: 2103338
10.	BCA Assessment	Perception Planning	00/00/2024 Ref: J003471
11.	Flood Assessment	Martens	19/01/2024 Ref: P2309622JR01V01
12.	Landscape Plans	Studio 26 Urban Design	09/02/2024 Rev: D
13.	Stormwater Management Plan	DRB Consulting Engineers	30/01/2024 Ref: 232495 Rev: A
14.	Transport Impact Assessment	Traffic and Transport Planning Solutions	15/01/2024 Ref: N241
15.	Noise Impact Assessment	Reverb Acoustics	January 2024 Ref: 23-2829-R2

16.	Crime Prevention Through Environmental Design Report	Perception Planning	02/02/2024 Ref: J003472
17.	Preliminary Site Investigation	Hunter Environmental Consulting	21/02/2023 Ref: E0032-PSI-001-Rev0
18.	HAZMAT Assessment	Hunter Environmental Consulting	23/02/2023 Ref: E0032-HAZ-001-Rev0
19.	Site Waste Minimisation Plan	Perception Planning	09/02/2024 J003470
20.	Cost Estimate Report	Perception Planning	06/02/2024 J003470
21.	Owners Consent	Owner	N/A

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
TERMS AND ABBREVIATIONS	4
LIST OF FIGURES/TABLES	4
PLANS AND SUPPORTING DOCUMENTATION	5
TABLE OF CONTENTS.....	7
1 BACKGROUND	9
1.1 PURPOSE.....	9
1.2 SITE DETAILS	10
1.3 SITE DESCRIPTION	10
1.4 CURRENT USE AND EXISTING DEVELOPMENT DETERMINATIONS.....	12
2 DESCRIPTION OF THE DEVELOPMENT	12
2.1 PROPOSED DEVELOPMENT	12
2.2 DEVELOPMENT OPTIONS	14
3 PLANNING CONTROLS	19
3.1 ACTS.....	19
3.1.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.....	19
3.1.2 RURAL FIRES ACT 1997.....	21
3.1.3 BIODIVERSITY CONSERVATION ACT 2016	21
3.1.4 ROADS ACT 1993.....	22
3.1.5 WATER MANAGEMENT ACT 2000	23
3.2 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS).....	23
3.2.1 SEPP (BIODIVERSITY AND CONSERVATION) 2021	24
3.2.2 SEPP (RESILIENCE AND HAZARDS) 2021	24
3.2.3 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021	25
3.2.4 (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017 ..	26
3.2.5 SEPP (INDUSTRY AND EMPLOYMENT) 2021	27
3.3 LOCAL ENVIRONMENTAL PLAN (LEP)	27
3.4 DEVELOPMENT CONTROL PLAN (DCP)	31
3.4.1 MUSWELLBROOK DCP 2009	31
3.5 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS	31
4 LIKELY IMPACTS OF THE DEVELOPMENT	31
4.1 BUILT ENVIRONMENT	31
4.1.1 CONTEXT, SETTING AND VISUAL IMPACT	31
4.1.2 ACCESS, TRANSPORT AND TRAFFIC.....	32

4.1.3	PUBLIC DOMAIN.....	33
4.1.4	SERVICES.....	33
4.1.5	NOISE AND VIBRATION.....	33
4.2	NATURAL ENVIRONMENT	33
4.2.1	ECOLOGICAL.....	33
4.2.2	ARCHAEOLOGY	33
4.2.3	STORMWATER	33
4.3	SOCIAL AND ECONOMIC	34
4.3.1	SAFETY, SECURITY AND CRIME PREVENTION	35
4.4	SUITABILITY OF THE SITE	35
4.5	ANY SUBMISSIONS AND CONSULTATION	35
4.6	PUBLIC INTEREST	35
5	CONCLUSION.....	36

1 BACKGROUND

1.1 PURPOSE

The purpose of this Statement of Environmental Effects (SEE) is to assist Council in their assessment and determination and to assist the community in understanding the proposed development.

This SEE has been prepared in coordination with Rohit Mahajan (**‘the client’**) and other sub-consultants to demonstrate the relevant matters associated with the proposed development. The SEE examines the existing development and site location, how the proposed development relates to the location and the environment, as well as the planning merits of the development with respect to the relevant legislation, regulation and other requirements. The SEE examines the applicable site attributes and the specifics of the development proposal that are appropriate to the development application stage. The SEE seeks to provide all the relevant data to give a suitable level of certainty to the consent authority that the proposal has a positive impact on the immediate area and the wider surrounds.

This SEE has been prepared in accordance with best practice principles, applicable aspects of the Development Assessment Framework and the Department of Planning and Environment’s guide to the *Environmental Planning and Assessment Act* (EP&A Act) 2021 (s4.15).

The objectives of this SEE are as follows:

- To provide a description of the site, existing development and the surrounding locality;
- To provide a description of the proposal and the key issues;
- To provide a discussion of the relevant Environmental Planning Instruments (EPI)s; and
- To provide an assessment of the potential environmental impacts, having regard to the matters for consideration pursuant to the EP&A Act (s4.15) and other State, Regional and Local environmental planning policies and guidelines.

1.2 SITE DETAILS

Property Address	36-38 Maitland St, Muswellbrook, NSW, 2333
Lot and DP	LOT: 7 DP: 1098460 LOT: 8 DP: 6758
Current Use	Residential
Zoning	R1: General Residential
Size (Lot Area)	<ul style="list-style-type: none">• 36 Maitland St: 901m²• 38 Maitland St: 2,008.75m²• Total: 2,909.75m²
Site Constraints	<ul style="list-style-type: none">• Minimum Lot Size – 600m²• Floor Space Ratio – 0.5:1• Height of Buildings – 8.5m
Owner	Owner's consent has been provided on the Application Form for the DA.
DP and 88B Instrument	A copy of the Certificates of Title and Deposited Plans for both sites are provided at ATTACHMENT 3 and ATTACHMENT 4 .

1.3 SITE DESCRIPTION

The site is located at 36-38 Maitland St, Muswellbrook, NSW, 2333, legally identified as (LOT: 7 DP1098460 and LOT: 8 DP6758) (**'the site'**). The sites combined present an irregular shape and has a total area of approximately 2,909.75m² (**FIGURE 1**). The site is located within the township of Muswellbrook, within the Muswellbrook Local Government Area (LGA).

The site is identified as two single zone allotments and zoning is identified by the Muswellbrook LEP as R1: General Residential. Built form across the site consists of:

- 36 Maitland St: Existing dwelling and ancillary metal sheds.
- 38 Maitland St: Existing dwelling, ancillary metal sheds, and swimming pool.

The topography is flat, with existing vegetation consisting of small to medium sized planting throughout. The site is bound by the New England Highway (Maitland Street) to the Southwest, Wilder Street to the North, Gyarran Street to the Southeast, and adjacent R1 zoned properties to the Northeast.

Vehicular access to the sites is currently gained via Wilder Street for 36 Maitland St and Maitland Street for 38 Maitland Street. On-street parking and pedestrian access is also available from Wilder St and Maitland St.

The site has access to existing reticulated water, sewerage, electricity, and telecommunications services.



Figure 1 - Locality Map (NSW Planning Portal 2023)

1.4 CURRENT USE AND EXISTING DEVELOPMENT DETERMINATIONS

The site is currently occupied by:

- 36 Maitland St: Existing dwelling and ancillary metal sheds.
- 38 Maitland St: Existing dwelling, ancillary metal sheds, and swimming pool.

The Muswellbrook Shire Council Development Application Tracker website identifies no recent or historic development applications relating to the site.

No known compliance matters exist over the site which would pose issues for the proposed development.

2 DESCRIPTION OF THE DEVELOPMENT

2.1 PROPOSED DEVELOPMENT

The objective of this application is to obtain consent for demolition of all existing structures including vegetation removal, proposed lot consolidation, and proposed childcare centre at the subject site. The development designs are provided as **ATTACHMENT 9** and **Figures 2 – 5** and will consist of the following components:

Demolition of all structures including vegetation removal on both sites

All structures on both sites are proposed to be demolished to enable the proposed development to take place. This will include the removal of all vegetation within both sites.

Lot consolidation

The consolidation of 36 and 38 Maitland St is proposed.

Note: Both lots to be consolidated prior to CC.

Proposed centre-based childcare facility

A new centre-based childcare facility is proposed on the consolidated site. The childcare centre will include the following areas:

Main Building

- Access ramp and stairs
- Entry and waiting room
- Admin/reception
- Meeting room
- Office
- Storage room

- Laundry
- Bathroom
- Kitchen
- Staff room
- Cot room
- 4 activity rooms
- Nappy change room
- Bottle prep room
- Craft room
- 2 W/C rooms

Rear Outdoor Play Area

An outdoor play area is proposed at the rear of the site and will consist of a tiered play area and flat area with shade structures.

Carpark

A 25-space carpark is located at the front of the site which will provide entry and exit to Wilder Street.

Additional landscaping

Additional landscaping is proposed throughout the site to soften the proposed built structure and to maintain a pleasant streetscape. Refer to **ATTACHMENT 12** for Landscape Plans.

Landscaping will consist of multiple mature trees along the site boundaries with grassed areas throughout and child-friendly ground treatments at the rear outdoor play area including an obstacle course, sand pit and sensory bike path.

The proposed centre has been designed to provide care for up to 100 children from 0-5 years during operating hours of 7.00am – 7.00pm. A total of 17 staff are anticipated for the centre.

Childcare places and staffing ratios will be provided as follows;

- Age 0-2yrs – 20 children – 5 educators
- Age 2-3yrs – 25 children – 5 educators
- 3+ yrs – 55 children – 5 educators
- Early childhood teachers – 2 teachers

The proposed development will reinforce the nature of the locality and is characteristic of other developments in both the local and wider community. The architectural design responds well to the existing context of the area and environmental constraints such as flooding and access considerations through appropriate massing and spatial organisation, material selection, and overall design.

The proposal addresses the context of the area and has minimal visual impact on the surrounding built environment.

The proposed development will not negatively impact on the visual amenity or function of the locality through the appropriate siting and architectural design of the development.

Rather, the proposed childcare centre will provide essential childcare services to the community in an easily accessible and functional area.

DCP and LEP compliance ensures that the proposed development does not adversely affect neighbouring lots or the wider area.

No detrimental effects to the environment or visually are expected to result from the proposed development given its suitability to the site. The development is enabled through the Muswellbrook LEP.

2.2 DEVELOPMENT OPTIONS

A review of alternative uses of the site identified the following options:

1. Do nothing and leave the site as is

The population of the Muswellbrook LGA is growing, with its proximity to Newcastle and Maitland making it a desirable location to raise a family. Additionally, the growing mining community and relocation of families to the area has resulted in an increase in childcare demand. Centre based childcare is a rapidly growing industry and is well supported by current Government initiatives. The site is currently occupied by two existing residential dwellings. Due to the lack of significant vegetation and flat topography, the site is considered suitable for the proposed development and use, which will service the wider community. The 'do nothing' option is not considered to be utilising the site to its full potential and is not the preferred option of the owner.

2. Lodge a Development Application for the proposed development associated with the existing pre-school

The site is suited to a well-designed childcare facility; it is readily accessible by private vehicle and public transport and is well placed to service both residents and workers of the locality. The proposed design considers the natural features of the site as well as relevant planning regulations. An analysis of the planning, social and environmental merits of the development with respect to the relevant legislation, regulation and other requirements has been undertaken throughout this SoEE.

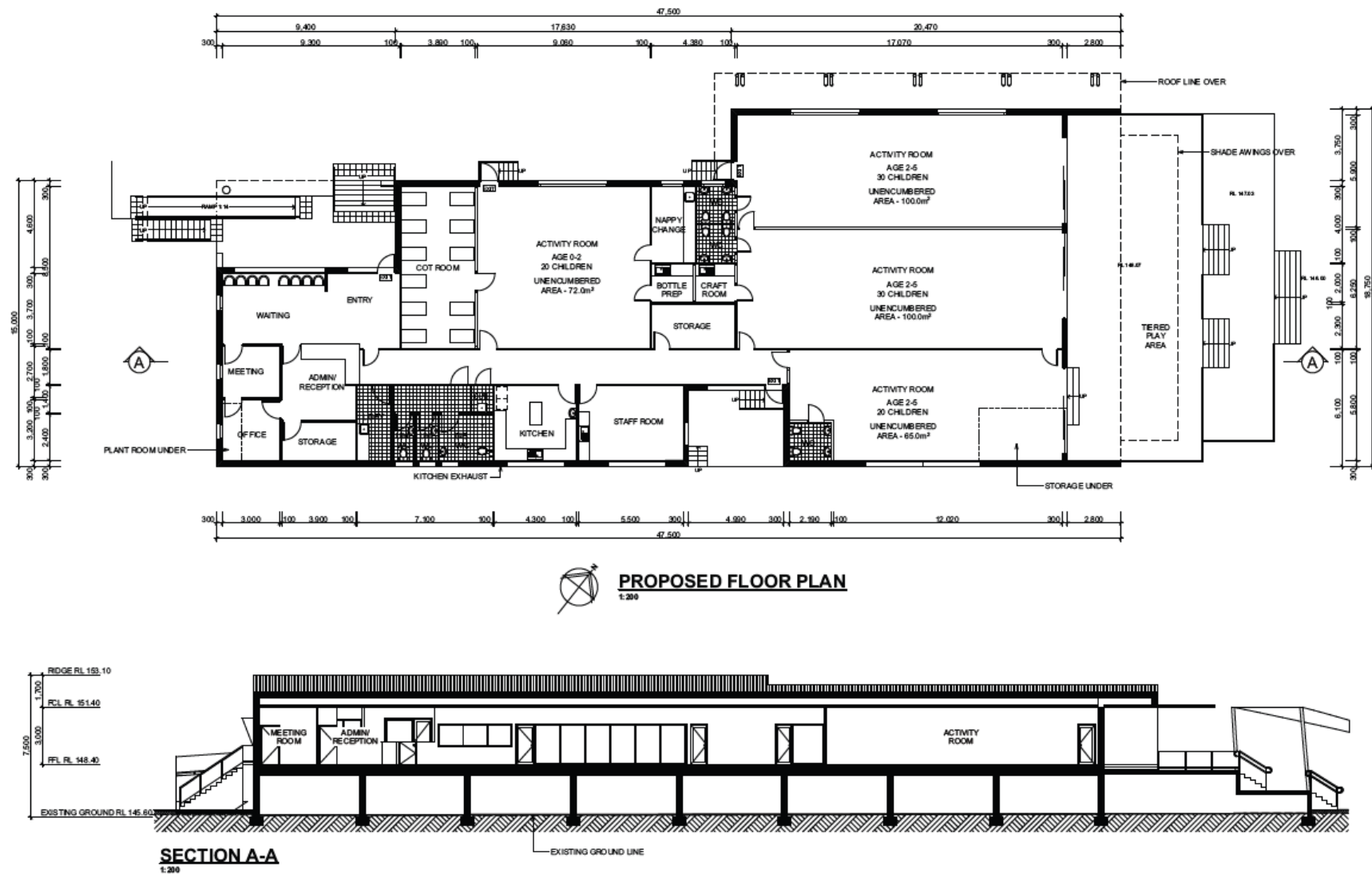


Figure 3 – Floorplan and Section (Sorensen Design 2024)

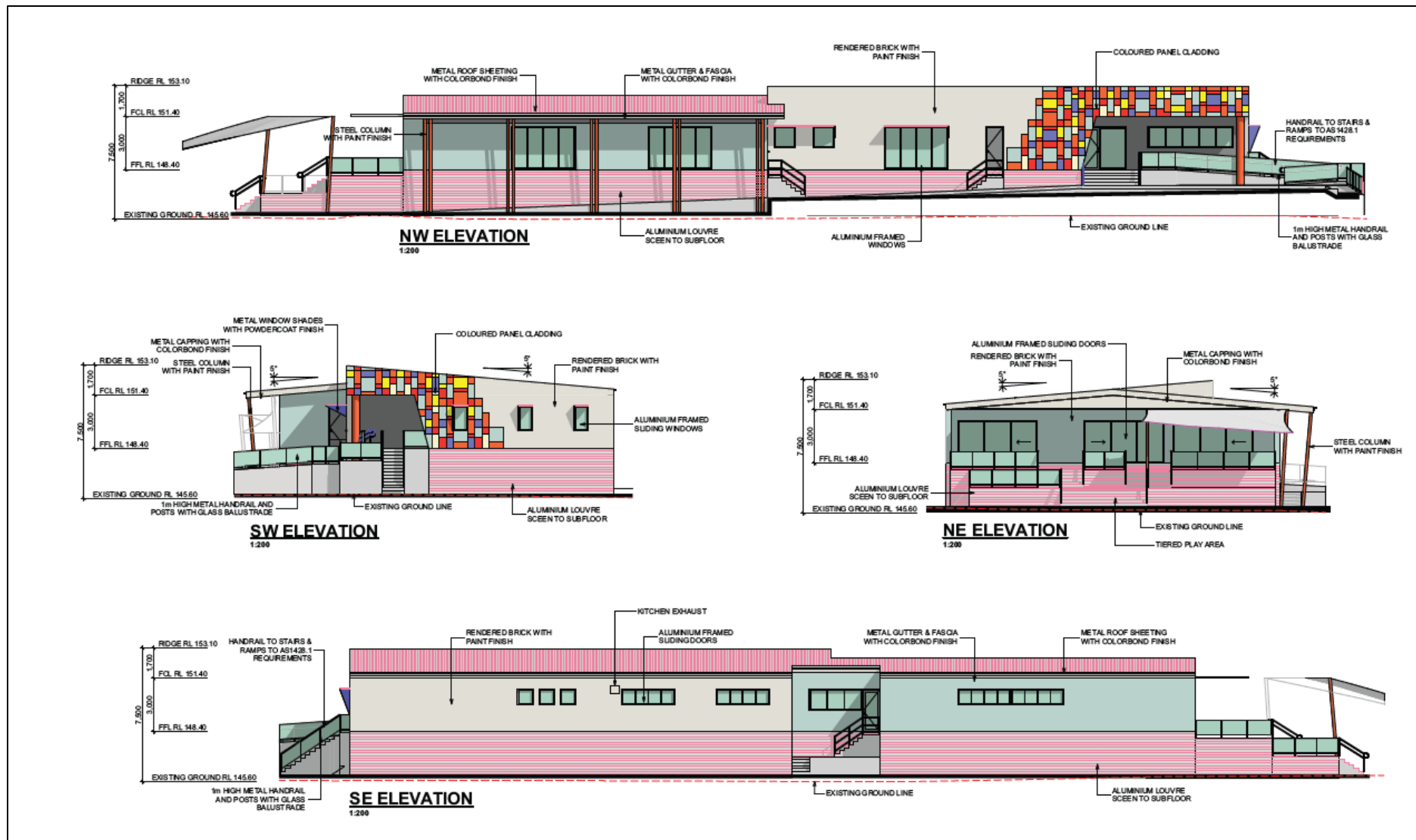


Figure 4 - Elevations (Sorensen Design 2024)

OVERALL LANDSCAPE PLAN



Key

- | | | | | |
|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 01 Proposed Driveway From Wilder Street | 04 Proposed Planting Area
Refer to Planting Palette on Page 13 for plant species | 08 Proposed Arbour
Refer to Planting Palette on Page 13 for plant species | 11 Obstacle Course
This is to assist with balance and coordination. | 15 Tee Pee Area with raised planters |
| 02 Proposed Street Tree
Refer to Planting Palette on Page 13 for plant species | 05 Proposed Parking Area | 09 Deck Area
Circulation Area for slide and climbing walls | 12 Building
Refer to Sorensen Design and Planning | 16 Sand Pit Area with Row Boat and Sensory/
bike path
Area to be under shade cloth
3m zone |
| 03 Proposed Trees
Refer to Planting Palette on Page 13 for plant species | 06 Proposed Pedestrian Entry Point | 10 Artificial Turf Area
This area is to allow for free play and/or educators to create sometimes play activities. | 13 Open Deck Area
For 0-2 year old active area with folding arm awning | 17 Quiet Play Area
Area could have bean bags etc. |
| | 07 Proposed Pedestrian Pathways | | | |

Note: All Deck areas to have min 900mm high no climbable fences above 750mm in height.



STUDIO 26 URBAN DESIGN

MAILTAND STREET CHILDCARE CENTRE | LANDSCAPE PLAN

9

Figure 5 - Landscape Plan (Studio 26 Urban Design 2024)

3 PLANNING CONTROLS

3.1 ACTS

The following Acts are considered relevant to the proposed development:

- *Environmental Planning and Assessment Act*
- *Rural Fires Act 1997*
- *Biodiversity Conservation Act 2016*
- *Roads Act 1993*
- *Water Management Act 2000*

3.1.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal planning and development legislation in NSW and is applicable to the proposed development. Section 4.15 of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15 are addressed in further detail in separate sections of this SoEE below.

- **Section 4.46 – What is integrated development?**

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals listed within **Table 1** below. The proposed development is not classified as integrated development.

Table 1 - Integrated development

Integrated development	Proposed Development	
Fisheries Management Act 1994	<ul style="list-style-type: none">▪ s 144▪ s 201▪ s 205▪ s 219	N/A
Heritage Act 1977	<ul style="list-style-type: none">▪ s 58	No – The site is not identified as a State or Local Heritage Item and is not located within a Heritage Conservation Area.
Coal Mine Subsidence Compensation Act 2017	<ul style="list-style-type: none">▪ s 22	N/A – The site is not located within a Mine Subsidence Area.

Mining Act 1992	<ul style="list-style-type: none"> ▪ s 63, 64 	N/A
National Parks & Wildlife Act 1974 (as amended)	<ul style="list-style-type: none"> ▪ s 90 	N/A – The site is not identified as a heritage item, nor within a heritage conservation area. An AHIMS search, contained in ATTACHMENT 5 was conducted on 29 January 2024. The search did not identify any Aboriginal sites or places within a 50m buffer of the site. Given the disturbed nature of the locality is unlikely that the development would uncover any Aboriginal artifacts or relics. In the event that an item is unearthed, all works are to cease, and the appropriate authority notified.
Protection of the Environment Operations Act 1997	<ul style="list-style-type: none"> ▪ ss 43(a), 47, 55 ▪ ss 43(b), 48, 55 ▪ ss 43(d), 55, 122 	N/A
Roads Act 1993	<ul style="list-style-type: none"> ▪ s 138 	Maitland Street (New England Highway) is identified as a State Road, while Wilder and Gyarran Streets and are identified as local government roads. Accordingly, referral to Transport for NSW is not required, given the roads are not classified or state main roads. A Section 138 of the Roads Act 1993 is required prior to CC relating to construction of the vehicle access crossings. All vehicles will be able to move onto and off the site in a forward direction via the proposed carpark. As such the development is not anticipated to compromise road safety. Furthermore, there are sufficient sightlines available to allow safe egress from the site. A Transport Impact Assessment is provided as ATTACHMENT 14 and supports the proposed development, concluding that the traffic generation of the proposed development will be relatively minor, will not present any adverse traffic implications, and the

		proposed parking provision will be adequate for the needs of the development and generally consistent with the DCP criteria and AS2890 design standards.
Rural Fires Act 1997	▪ s 100B	N/A – The site is not bushfire prone.
Water Management Act 2000	▪ ss 89, 90, 91	N/A – The site is not within 40m of the mapped watercourse applicable under this Act.

- **Section 7.11 – Development Contributions**

Development contributions will be calculated and charged in accordance with the Muswellbrook Shire Council City Wide Infrastructure Contributions Plan.

3.1.2 RURAL FIRES ACT 1997

The subject site is not identified as bushfire prone.

3.1.3 BIODIVERSITY CONSERVATION ACT 2016

The purpose of this Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

Applicants are to supply evidence relating to the triggers for the Biodiversity Offsets Scheme (BOS) Threshold and the test of significance when submitting a development application to the consent authority.

Despite all vegetation being proposed to be removed, the subject site does not contain any areas of vegetation or riparian areas identified on the Biodiversity Values Map (**FIGURE 6**) identified as land with high biodiversity value and sensitive to impacts from development and clearing. To this extent, an ecologist report has not been commissioned.

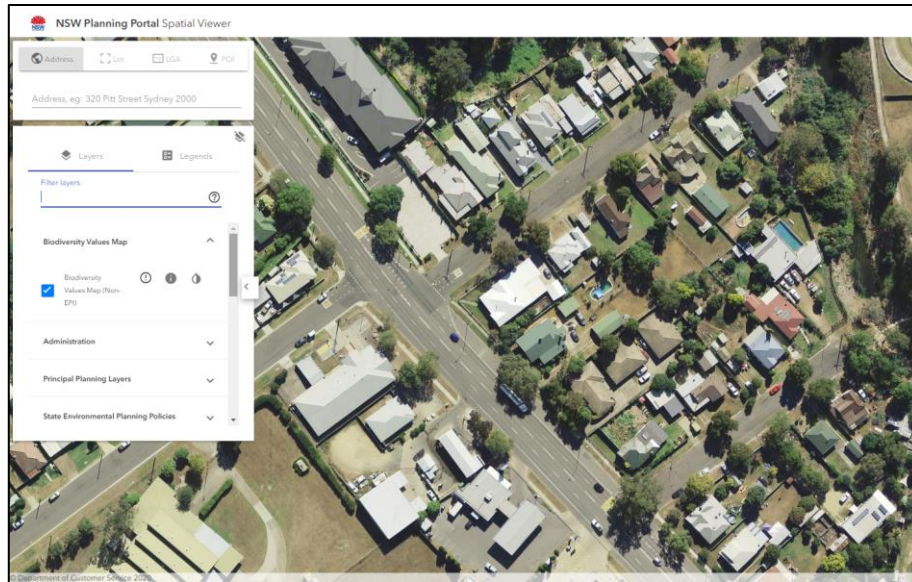


Figure 6 - Biodiversity Values (Biodiversity Values Map and Threshold Tool 2024)

3.1.4 ROADS ACT 1993

Maitland Street (New England Highway) is identified as a State Road, while Wilder and Gyarran Streets and are identified as local government roads (**FIGURE 7**). A Section 138 of the Roads Act 1993 is required prior to CC relating to construction of the vehicle access crossings. All vehicles will be able to move onto and off the site in a forward direction via the proposed carpark. As such the development is not anticipated to compromise road safety. Furthermore, there are sufficient sightlines available to allow safe egress from the site. A Transport Impact Assessment is provided as **ATTACHMENT 14** and supports the proposed development, concluding that the traffic generation of the proposed development will be relatively minor, will not present any adverse traffic implications, and the proposed parking provision will be adequate for the needs of the development and generally consistent with the DCP criteria and AS2890 design standards.

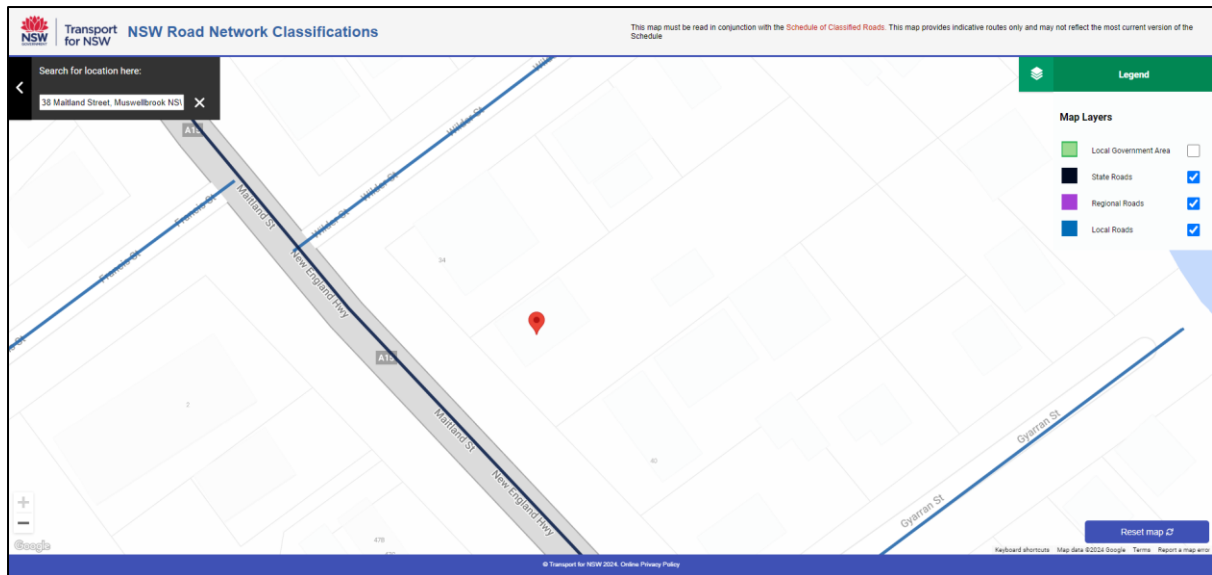


Figure 7 - Road Network Classifications (Transport for NSW 2024)

3.1.5 WATER MANAGEMENT ACT 2000

The subject site is not located within a Drinking Water Catchment pursuant to the LEP. No physical works will take place within 40m of any body of water, nor will the development have a lasting impact on any watercourses or waterbodies on site. No further assessment of the Water Management Act is required.

3.2 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

The following SEPPs are considered relevant to the proposed development:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
 - *Chapter 2 – Vegetation in non-rural areas*
 - *Chapter 4 – Koala Habitat Protection 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
 - *Chapter 2 – Coastal Management*
 - *Chapter 4 – Remediation of Land*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
 - *Chapter 2 – Infrastructure*
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*
- *State Environmental Planning Policy (Industry and Employment) 2021*
 - *Chapter 3 – Advertising and Signage*

3.2.1 SEPP (BIODIVERSITY AND CONSERVATION) 2021

CHAPTER 2 – VEGETATION IN NON-RURAL AREAS

The aim of this Chapter is to protect the biodiversity values of trees and other vegetation in non-rural areas. Pursuant to Section 2.3, land zoned R1 Low Density Residential is land to which this Chapter applies.

The proposed development requires the removal of all vegetation existing on the site. As detailed under the assessment of the *Biodiversity Conservation Act 2016* the proposed development is not considered to substantially impact upon biodiversity or ecological values of the site or the locality. To this extent, no impact is identified on existing vegetation.

Furthermore, as detailed in the Landscape Plans (**ATTACHMENT 12**), landscaping of the site will occur which will add positively to the locality from both an amenity and ecological perspectives.

CHAPTER 4 – KOALA HABITAT PROTECTION 2021

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. Section 4.4 and Schedule 2 of the SEPP identify the Muswellbrook Local Government Area as land to which the policy applies and subject to the Central Coast Koala Management Area.

The key threats within the Central Coast Koala Management Area have been identified as:

- Habitat clearing and fragmentation;
- Vehicle strike and dog attack;
- Bushfire;
- Invasive plant species;
- Disease;
- Reduction in feed trees; and
- Sea level rise.

However, pursuant to Section 4.4 the site is below 1ha and accordingly the Chapter does not apply to the development. Considering the urban nature of the allotment and the distance for substantial bush area that is likely to provide habitat to Koala's, the proposed development is considered to have minimal impact on koala habitat and their ability to forage. To this extent, no impact is identified on koala habitat and the free-living population.

3.2.2 SEPP (RESILIENCE AND HAZARDS) 2021

CHAPTER 4 – REMEDIATION OF LAND

This Chapter applies to the whole state. Under Section 4.6, a consent authority must not grant consent to the carrying out of any development unless they have considered whether the land is contaminated.

The site is currently zoned for residential purposes. Considering the historic use for the site has been ongoing as residential, it is not expected or known that surrounding locality has the potential to be contaminated.

A Preliminary Site Investigation and HAZMAT Assessment are provided as **ATTACHMENT 17** and **ATTACHMENT 18**.

While the site is not identified as being contaminated, appropriate measures will need to be taken during demolition works to ensure hazardous materials are managed and disposed of carefully as outlined within the HAZMAT Assessment.

To this extent, the land is considered suitable for the proposed development.

3.2.3 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

CHAPTER 2 – INFRASTRUCTURE

The purpose of this Chapter is to facilitate the effective delivery of infrastructure across the state and identifying matters to be considered in the assessment of developments adjacent to particular types of development.

Division 5, Subdivision 2 Development likely to affect an electricity transmission or distribution network

Section 2.48 – Determination of development applications – Other development

The subject site is currently serviced by reticulated water, sewer, and electricity services. All services are available to the site and all services will be extended to service the proposed development.

Penetration of the ground within 2m of underground electrical infrastructure triggers referral the electricity supply authority is triggered pursuant to Section 2.48(1)(a). It is not anticipated that referral to the electricity authority is warranted in this instance.

Division 12A, Subdivision 2 Development adjacent to pipeline corridors

Section 2.76 – Determination of development applications

The proposed development is not in the vicinity of a 'licenced' pipeline corridor as defined under Section 2.76 (2). Accordingly, the proposed development does not trigger referral to any pipeline operator pursuant to Section 2.76.

Division 17, Subdivision 2 Development in or adjacent to road corridors and road reservations

Maitland Street (New England Highway) is identified as a State Road, while Wilder and Gyarran Streets and are identified as local government roads (**FIGURE 8**). As such, referral or Transport for NSW (TfNSW) for development on or adjacent to a classified road is triggered under Sections 2.117, 2.118 and 2.119.

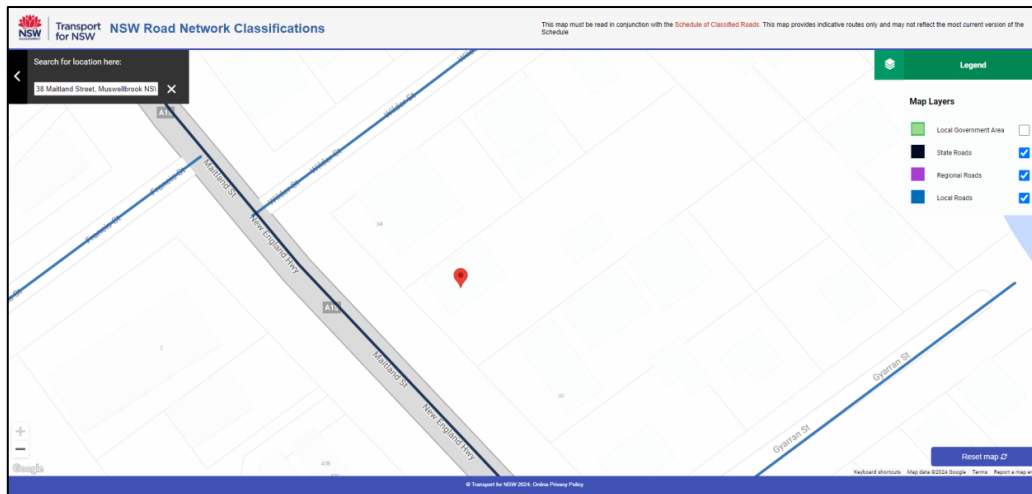


Figure 8 - Road Network Classifications (Transport for NSW 2024)

3.2.4 (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017

CHAPTER 3 – EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES

The aim of this Chapter is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. Part 3.3 of this Chapter sets out the specific development controls relating to early education and childcare facilities.

This policy aims to facilitate the effective delivery of educational establishments and early education and care facilities across the State.

The SEPP states that:

*‘23 Centre-based child care facility—matters for consideration by consent authorities
Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.’*

Refer to **ATTACHMENT 2** for a complete review of this SEPP.

An analysis of the proposed development with relation to Section 2.0 Design Quality Principles of the Childcare Planning Guideline 2017 is conducted within **ATTACHMENT 2**.

The National Quality Framework Assessment Checklist will be considered further and completed at the detailed design stage to ensure the proposed development is consistent and provides a high level of safety, engagement, sustainability, and practicality. The plans submitted with this application have been developed by an experienced architectural design company in accordance with the relevant provisions and requirements.

3.2.5 SEPP (INDUSTRY AND EMPLOYMENT) 2021

CHAPTER 3 – ADVERTISING AND SIGNAGE

This chapter aims to ensure signage including advertising is compatible with the desired amenity and is of high-quality design and finish. This chapter applies to all signage that can be displayed with or without development consent and is visible from any public place or public reserves.

The proposed development will include signage, although details in terms of locations, sizing, and sign types are yet to be determined. The development will utilise signage of high-quality design and finish. The signage will assist the community and customers identify the business and will be compatible with the design amenity and in line with other business premises within the locality.

3.3 LOCAL ENVIRONMENTAL PLAN (LEP)

The following parts of the Muswellbrook LEP 2009 apply to the proposed development:

- **Clause 2.3 – Zone Objectives and Land Use Table**

The site is zoned R1: General Residential under the Muswellbrook LEP 2009. The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To enable sensitive infill development of other housing types.*
- *To allow people to carry out a reasonable range of activities from their homes, where such activities do not adversely affect the living environment of neighbours.*
- *To promote the principles of ecological sustainable development including energy and water efficient subdivision and housing design.*
- *To minimise the impact of non-residential uses and ensure these are in character and compatible with surrounding development.*
- *To ensure that development is carried out in a way that is compatible with the flood risk of the area.*

The proposed development will maintain the character of the residential setting in the Muswellbrook South town centre whilst providing essential childcare services in the area.

This development is enabled by the Muswellbrook LEP and achieves the objective of providing a range of uses where infrastructure is adequate to support. The proposed development will provide additional childcare services to meet the needs of the growing population within the LGA.

The proposed development has been designed and will be operated to avoid impacts on the residential amenity of the surrounding area.

Accordingly, the proposed development is consistent with the aims and objectives of the applicable R1 zoning of the subject land.

R1 Land Use Table
<u>Permitted without Consent</u> Home occupations
<u>Permitted with Consent</u> Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities ; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hostels; Kiosks; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Sewage reticulation systems; Shop top housing; Tank-based aquaculture; Water recycling facilities; Water supply systems.
<u>Prohibited</u> Any other development not specified in item 2 or 3

Permissibility: The proposed Centre-based childcare facility is permissible in the R1 zone as per the R1 Land Use Table above.

A centre-based childcare facility is defined as follows:

centre-based child care facility means—

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school-hours care (including vacation care),*
- (iv) preschool care, or*

(b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),

Note—

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided.

The proposed development is consistent with the character and objectives of the area and therefore, is considered appropriate within its surrounding context.

- **Clause 4.1 – Minimum subdivision lot size**

The Muswellbrook LEP 2009 states that the subject site has a minimum lot size of 600m². Both subject sites are compliant with lot sizes of 901m² (36 Maitland St) and 2,008.75m² (38 Maitland St). Both sites are proposed to be consolidated, resulting in a total lot size of 2,909.75m². No subdivision is proposed as part of this application.

Note: Both lots to be consolidated prior to CC.

- **Clause 4.3 – Height of buildings**

The Muswellbrook LEP 2009 Height of Buildings Map Sheet HOB_008A states that the subject site has a prescribed maximum height limit of 8.5m. The proposed development will have a compliant maximum height of 7.5m.

- **Clause 4.4 – Floor space ratio**

The Muswellbrook LEP 2009 Height of Buildings Map Sheet FSR_008A states that the subject site has a prescribed maximum floor space ratio of 0.5:1. The proposed development will result in a compliant FSR of 0.22:1.

- **Clause 5.10 – Heritage conservation**

A search of the Aboriginal Heritage Information Services (AHIMS) database (29 January 2024) identified the subject site as containing no Aboriginal sites or places as shown in **ATTACHMENT 5**.

Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.

The site is also not identified within Schedule 5 of the LEP as containing any items or places of heritage significance.

The site is not identified as a heritage item under the Muswellbrook LEP 2009 or located within a Heritage Conservation Area.

- **Clause 5.21 – Flood planning**

The site is identified as being flood prone land as per Muswellbrook Shire Council Flood Mapping (**FIGURE 9**) and the Flood Certificate (**ATTACHMENT 7**).

A Flood Assessment is provided as **ATTACHMENT 11** which concludes that the proposed development achieves all objectives regarding flood storage, off-site impacts, safety and access. It makes recommendation such as utilising piling as the building foundations and ensuring all structures below the PMF level are constructed of flood compatible materials.

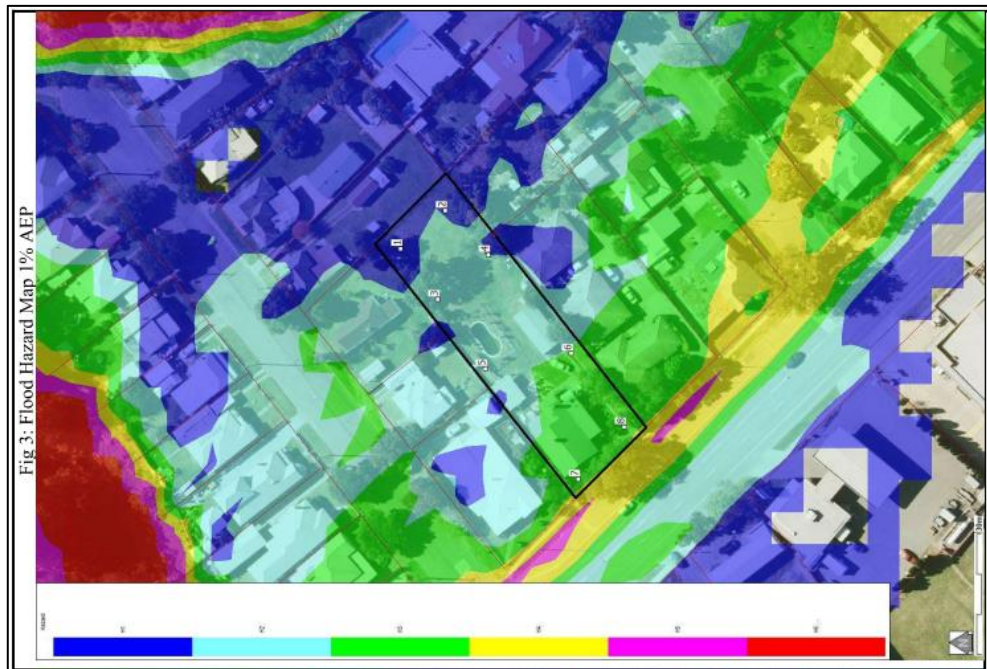


Figure 9 - Flood Hazard Mapping (Muswellbrook Shire Council Flood Certificate 2023)

- **Clause 5.22 – Special flood considerations**

The site is identified as being flood prone land as per Muswellbrook Shire Council Flood Mapping (**FIGURE 9**) and the Flood Certificate (**ATTACHMENT 7**).

A Flood Assessment is provided as **ATTACHMENT 11** which concludes that the proposed development achieves all objectives regarding flood storage, off-site impacts, safety and access.

- **Clause 7.1 – Terrestrial biodiversity**

The site does not contain any mapped terrestrial biodiversity.

- **Clause 7.6 – Earthworks**

Earthworks associated with the proposed development will be minimal in nature due to the flat topography of the site and will involve preparation for the building foundations.

Any material that is proposed to be imported or exported from the subject site will consist of Virgin Excavated Natural Materials (VENM), Excavated Natural Materials (ENM) or other certified material. Accordingly, the development complies with the requirements of this clause.

3.4 DEVELOPMENT CONTROL PLAN (DCP)

3.4.1 MUSWELLBROOK DCP 2009

Consideration of compliance and/or consistency with the relevant provisions of the Muswellbrook DCP 2009 is provided in the Table of Compliance provided at **ATTACHMENT 2**. The Table of Compliance identifies that the proposed development demonstrates complete compliance with the relevant provisions of the DCP.

3.5 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.15(1)(a)(ii) requires the consent authority to consider:

Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

At the time of lodgement of this development application there were no draft environmental planning instruments that are relevant to the proposed development or subject site; that should be considered as part of this development application.

4 LIKELY IMPACTS OF THE DEVELOPMENT

The likely impacts of the proposed development and constraints affecting the subject site have been explored throughout this SEE. The following sections detail the major potential impacts and constraints in greater detail, in accordance with Section 4.15(1) of the EP&A Act 1979.

4.1 BUILT ENVIRONMENT

4.1.1 CONTEXT, SETTING AND VISUAL IMPACT

The proposed development will reinforce the nature of the locality and is characteristic of other developments in both the local and wider community. The architectural design responds well to the existing context of the area and environmental constraints such as flooding and access considerations through appropriate massing and spatial organisation, material selection, and overall architectural and civil engineering design.

The proposal addresses the context of the area and has minimal visual impact on the surrounding built environment.

The proposed development will not negatively impact on the visual amenity or function of the locality through the appropriate siting and architectural design of the development.

Additional landscaping is proposed throughout the site to soften the proposed built structure and to maintain a pleasant streetscape. Refer to **ATTACHMENT 12** for Landscape Plans.

Landscaping will consist of multiple mature trees along the site boundaries with grasses areas throughout and child-friendly ground treatments at the rear outdoor play area including an obstacle course, sand pit and sensory bike path.

Holistically, the development has been designed with respect to the existing built form in the immediate area and surrounding residential properties, achieving a high level of functionality whilst presenting a considered design solution.

Complete DCP and LEP compliance ensures that the proposed development does not adversely affect neighbouring lots or the visual aesthetics of the area.

The proposed development is consistent with existing land uses and developments in the area and will not affect current or future land uses or development. Through considered architectural and landscape design in accordance with Council guidelines and professional advice, the proposed development minimises any environmental impacts and preserves the visual amenity of the area.

No detrimental effects to the environment or visually are expected to result from the proposed development given its suitability to the site. The development is enabled through the Muswellbrook LEP.

There are no anticipated adverse impacts on the built environment as a result of the proposed development.

4.1.2 ACCESS, TRANSPORT AND TRAFFIC

Access to the site will be via a dual point driveway (single access and single exit) on Wilder Street leading to the proposed 25 space on-site carpark.

The proposed car parking will service the needs of the proposed childcare centre by providing 25 on-site carpark spaces. On-street parking and pedestrian access is also available from Wilder St and Maitland ST (New England Highway).

All vehicles will be able to move onto and off the site in a forward direction via the proposed carpark. As such the development is not anticipated to compromise road safety. Furthermore, there are sufficient sightlines available to allow safe egress from the site. A Transport Impact Assessment is provided as **ATTACHMENT 14** and supports the proposed development, concluding that the traffic generation of the proposed development will be relatively minor, will not present any adverse traffic implications, and the proposed parking provision will be adequate for the needs of the development and generally consistent with the DCP criteria and AS2890 design standards.

4.1.3 PUBLIC DOMAIN

The proposed development will not have any negative impacts on any public domain. Rather, it will provide essential childcare services to the population in an accessible and central area.

4.1.4 SERVICES

The subject site is serviced by reticulated water, sewer, stormwater, and electricity services. All services are available to the site and will be extended to service the proposed development.

4.1.5 NOISE AND VIBRATION

The proposed childcare centre is permissible in the R1 zone and has been assessed as suitable by an independent Acoustic Consultant, subject to construction recommendations detailed within the Noise Impact Assessment provided as **ATTACHMENT 15**.

No incompatible or adverse noise impacts have been identified as unacceptable in this location. Adverse vibrational impacts are not anticipated.

Construction and demolition noise will be as per normal construction times and processes and will cease once construction is completed.

4.2 NATURAL ENVIRONMENT

4.2.1 ECOLOGICAL

Despite all vegetation being proposed to be removed, the subject site does not contain any areas of vegetation or riparian areas identified on the Biodiversity Values Map identified as land with high biodiversity value and sensitive to impacts from development and clearing. To this extent, an ecologist report has not been commissioned and no adverse impacts on any ecology is anticipated.

4.2.2 ARCHAEOLOGY

A search of the Aboriginal Heritage Information Services (AHIMS) database (29 January 2024) identified the subject site as containing no Aboriginal sites or places as shown in **ATTACHMENT 5**. The site is also not identified within Schedule 5 of the LEP as containing any items or places of heritage significance. If artifacts are discovered during the demolition phase, then they will be managed in accordance with the regulations.

4.2.3 STORMWATER

The proposed development on site will result in an impervious area of 1,190m² or 68.62% of the site. Additional stormwater generated by the proposed development will be directed to the proposed above ground rainwater tanks located on the Northwestern side of the building, with overflow being directed to an underground OSD tank located under the proposed

carpark. The outlet from the OSD tank will direct stormwater flows to Councils existing stormwater pit located on the corner of Maitland St and Wilder St.

Refer to the Stormwater Management Plan provided as **ATTACHMENT 13**.

4.3 SOCIAL AND ECONOMIC

Social

Social impact is best defined by (Armour 1992) that describes changes that occur in:

- People's way of life (how they live, work, play and interact with one another on a day to day basis),
- Their culture (shared beliefs, customs and values), and
- Their community (its cohesion, stability, character, services and facilities).

The proposed development provides additional childcare facilities of high quality in the Muswellbrook area and will facilitate demand to service the needs of the community. The proposed development will be serviced by suitable facilities and services without burdening the existing supply available within the area. Utilities are available and suitable for connection to the development proposal.

The proposed development:

- Will provide additional childcare facilities of high quality in the Muswellbrook area and will facilitate demand to service the needs of the community, consistent with the general objectives of the zone;
- Will not disadvantage or benefit any particular social group;
- Will enhance the cultural life of the community through attracting new residents within the area who will in turn contribute to cultural and community activities when available;
- Will not create areas of insecurity or risk for occupants;
- Will support the opportunity to increase housing stock within the wider area; and
- Provides enhanced social and built infrastructure to positively benefit the new and existing population within the locality and adjoining areas.

There are no anticipated adverse social impacts as a result of the proposed development, rather it is considered the proposal will contribute positively to the social elements of the locality through an increase in residents. The proposed development is not out of character with the existing urban context, will not involve an increased risk to public safety and will not threaten the existing sense of community, identity or cohesiveness, rather will contribute to the increase of these aspects in the locality.

Economic

The proposed development will provide additional pre-school facilities of high quality in the area and will facilitate demand for additional childcare services to service the needs of the community, resulting in positive economic outcomes for the region.

The proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities.

The increase in childcare services will also directly influence and enhance business and employment opportunities in and around the area through the attraction of families to the area.

There are no anticipated adverse economic impacts as a result of the proposed development.

4.3.1 SAFETY, SECURITY AND CRIME PREVENTION

No safety, security, or crime prevention measures are required as a result of the proposed development. The proposed development will not create any safety, security or crime concerns on or around the site.

4.4 SUITABILITY OF THE SITE

The proposed development will provide an opportunity for suitable development of the subject site and accordingly, is considered to be within the public's best interest.

4.5 ANY SUBMISSIONS AND CONSULTATION

As part of the DA consideration process it is envisaged Council may place the proposal on public exhibition and send neighbor notification letters to adjoining or adjacent properties.

4.6 PUBLIC INTEREST

The proposal represents the provision of additional childcare facilities of high quality in the locality to service the needs of the community. This is consistent with the zone objectives and surrounding land uses and is not anticipated to have any adverse impacts on surrounding properties or the amenity of the locality.

The proposed development remains consistent with the residential nature of the land and is in keeping with the character of surrounding land uses, existing development, and nearby public facilities. The proposed development is in the public interest.

5 CONCLUSION

This SEE has shown that the development is within the public interest, from a social, economic and environmental perspective. The proposed development will provide additional childcare services in the area with minimal environmental impacts. Any relevant matters have been addressed through this SEE.

The key reasons why the proposed development is appropriate are as follows;

- The proposed development is permissible on the site with consent and will provide quality essential childcare services in the area.
- The proposed development is not considered to have a significant impact on the existing character or amenity of the area and will minimise any environmental impacts on the land.

It is considered that the proposal will have no significant impacts on the surrounding properties to that it is likely to adversely affect their enjoyment or amenity.

We look forward to Councils determination of this matter. If we can provide any further information or clarity, please don't hesitate to contact us.

APPENDICIES UNDER SEPARATE COVER



Perception Planning Pty Ltd.
PO Box 107,
Clarence Town, NSW, 2321
Phone: 0411 551 433
Email: admin@perceptionplanning.com.au