



**LEETON**  
SHIRE COUNCIL

**ITEM 7.11**  
**BUSINESS PAPER AND ATTACHMENTS**  
**23 AUGUST 2023 – ORDINARY COUNCIL MEETING**  
**7:00PM**

TO BE HELD IN THE  
COUNCIL CHAMBERS  
23-25 CHELMSFORD PLACE  
LEETON NSW 2705

Authorised for release: Jackie Kruger General Manager

**7.11 ECONOMIC AND COMMUNITY DEVELOPMENT MATTERS**

**7.11 DEVELOPMENT APPLICATION FOR A CHILDCARE CENTRE -  
39 - 45 BROBENAH ROAD LEETON .....2**

**ECONOMIC AND COMMUNITY DEVELOPMENT MATTERS**

**ITEM 7.11 DEVELOPMENT APPLICATION FOR A CHILDCARE CENTRE - 39 - 45 BROBENAH ROAD LEETON**

<b>PROPOSAL PROPERTY</b>	Proposed 79 place child care centre Lot 1 DP 871761
<b>LOCATION/ADDRESS</b>	39-45 Brobenah Road Leeton NSW 2705
<b>APPLICANT</b>	Clearsky Services
<b>ZONING APPLICABLE PLANNING INSTRUMENT</b>	R1 – General Residential Leeton LEP 2014
<b>EXISTING DEVELOPMENT</b>	Community Transport Facility
<b>OWNER APPLICATION DATE REASON FOR REFERRAL FROM</b>	Leeton Shire Council 19 June 2023 Council related Development Application Town Planner
<b>RELATED FILE NUMBER</b>	EF22/32

---

**SUMMARY/PURPOSE**

Council has received a development application (**Attachment 1**) for the erection of a centre-based childcare facility for seventy-nine (79) children, carpark and landscaping works at 39-45 Brobenah Road Leeton. The proposed childcare facility will front Brobenah Road.

This development application is classified as Council Related Development, hence was externally assessed by a consultant town planner. The Development Application was placed on public exhibition for a period of 28 days during which time adjoining landowners were notified of the proposed development. Two (2) submissions were received opposing the development.

---

**RECOMMENDATION**

THAT Council grants consent to Development Application 69/2023 (attached) for the erection of a centre-based childcare facility for 79 children, carpark and landscaping works at 39-45 Brobenah Road Leeton 2705.

Lot: 1 DP: 871761 in accordance with the following conditions of consent:

## **General Conditions**

### **Approved Plans**

1. Approval is granted for construction of a centre-based childcare facility for 79 children to be undertaken generally in accordance with the stamped approved plans, detailed as follows, Statement of Environmental Effects and other approved documentation except where modified in red or by any of the following conditions:

<b>Title/Plan no:</b>	<b>Ref no:</b>	<b>Sheet no:</b>	<b>Revisions:</b>	<b>Drawn by:</b>	<b>Dated:</b>
Statement of Environmental Effects	Lot 1 DP 871761	1-7	1	Steven Murray Architect	6/6/2023
Site Plan, Elevations, Floor Plan, Indicative Views	DA-01	1	1	Steven Murray Architect	6/23
Noise Impact Assessment	R220397R1	1-33	3	Rodney Stevens Acoustics	5/6/2023
Geotechnical Investigation & Pavement Design	E22-022	1-32	1	Aitken Rowe Testing Laboratories	22/6/2023

**{Reason: To ensure that the development is undertaken in accordance with that assessed}**

### **Essential Energy**

2. A distance of 1.8m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required.

**{Reason: To ensure that there is no safety risk. FROM LOW VOLTAGE OVERHEAD SERVICE CABLE TO NEIGHBOUR'S PROPERTY.}**

3. All works are to comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice if works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets.

**{Reason: To ensure that there is no safety risk.}**

4. If there are any proposed changes to the development that may result in potential safety risks, Essential Energy is to be consulted for further comment.

**{Reason: To ensure that there is no safety risk.}**

5. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

**{Reason: Essential Energy requirements.}**

6. Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

**{Reason: To ensure that there is no safety risk.}**

7. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines is also shown in the Look Up and Live app [essentialenergy.com.au/lookupandlive](http://essentialenergy.com.au/lookupandlive).

**{Reason: To ensure that there is no safety risk.}**

### **Commercial**

8. The approved hours of operation for children attendance are:  
Monday to Friday 7:00am to 6:30pm

**{Reason: To protect and preserve the amenity of the surrounding locality and in accordance with hours specified in the submitted Statement of Environmental Effects}**

9. The finished floor level of all habitable rooms shall be constructed to a height of not less than the Australian Height Datum to allow for a minimum of 300mm freeboard above a 1:100 Average Recurrence Interval flood event.

The applicant is to engage a registered surveyor to establish the finished floor level height prior to the construction of the floor. The registered surveyor is to submit a report to the Principal Certifier, confirming that the FFL is a minimum of 300mm above the 1:100 Average Recurrence Interval flood event, at time of either the concrete floor slab inspection or the floor frame inspection.

**{Reason: To ensure that the floor level is above the required floor level for the 1% AEP flood event}**

### **Access for People with Disability**

10. Access for people with disabilities shall be provided to and within the building in accordance with the provisions of the Disability (Access to Premises – Buildings) Standards 2010.

This approval does not ensure total compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under the Act.

**{Reason: Compliance with 'Section D: Access and Egress & Section F; Health & Amenity of the Building Code of Australia and to ensure the applicant is made aware that total compliance with the *Disability Discrimination Act 1992* may require further works outside of the scope of this development.}**

### **Prior to the issue of a Construction Certificate**

11. No activity is to be carried out on site until the Construction Certificate has been issued, other than:
- a. Site investigation for the preparation of the construction, and/or

- b. Implementation of environmental protection measures, such as erosion control etc that are required by this consent.

**{Reason: To ensure the construction certificate is issued prior to the commencement of works.}**

### ***Council as Principal Certifying Authority***

12. Should Council be appointed as the Principal Certifying Authority, an application for Construction Certificate shall be submitted through the NSW Planning Portal and approved prior to the commencement of any building work, with appropriate fees being paid.

**{Reason: To ensure the applicant has submitted the appropriate documentation prior to the commencement of works.}**

### ***Structural Engineers Design***

13. A statement from a practising Structural Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

**{Reason: To ensure the structure is certified by an appropriately qualified structural engineer and adequate for the site's soil conditions and imposed loadings.}**

14. Copies of a practising Structural Engineer's plan of the reinforced concrete footings and slab and the structural steel framework shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

**{Reason: To ensure the structure is certified by an appropriately qualified structural engineer and adequate for the site's soil conditions and imposed loadings.}**

### ***Fire Safety Measures***

15. Prior to the issue of a Construction Certificate, the applicant shall submit a Fire Safety Services Plan to the Certifying Authority, issued by an appropriately qualified person identifying the required fire safety measures for the proposed building in accordance with its NCC classification.

**{Reason: Compliance with the NCC Vol 1, section E - Services & Equipment.}**

### ***Prior to the commencement of works***

#### ***Public Access on Site***

16. Public access to the construction site is to be prevented when building work is not in progress or the site is unoccupied.

These prevention measures shall be in accordance with SafeWork NSW publication titled, 'Site Security and Public Access onto Housing Construction Sites' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

**{Reason: To comply with the requirements set by SafeWork NSW.}**

### **Site Signage**

17. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:
- a. The name, address and telephone number of the Principal Certifying Authority for the work; and
  - b. The name of the Principal Contractor and a telephone number at which that person may be contacted outside of working hours; and
  - c. That unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

**{Reason: Compliance with prescribed conditions made under Environmental Planning & Assessment Regulation 2000.}**

### **Temporary Closet Facility**

18. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

**{Reason: To ensure all workers on site have access to toilet facilities.}**

### **During works**

#### **Critical Stage Inspections**

19. The following Critical Stage Inspections are required to be carried out by the Principal Certifying Authority to enable the issue of an Occupation Certificate:

- a. after excavation for, and before placement of, the first footing,
- b. before covering stormwater drainage connections,
- c. after the building work is completed and before an occupation certificate is issued for the building (the final critical stage inspection).

Note: 48 hours prior notice for all of the above inspections (where applicable) shall be given.

**{Reason: Section 6.5 (1) (b) of the Environmental Planning & Assessment Act 1979, requires that critical stage inspections are carried out prior to the issue of an Occupation Certificate (OC).}**

### **Building Code of Australia**

20. All building works shall be carried out in accordance with the National Construction Code.

**{Reason: Compliance with prescribed conditions made under Environmental Planning & Assessment Regulation 2000.}**

### **Approved Plans**

21. A copy of the stamped approved plans shall be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

**{Reason: To ensure the Principal Contractor has access to the approved plans.}**

### **Access for Disability**

22. A minimum of one car parking space shall be provided in the car park for use by people with disabilities. Access for people with disabilities shall be provided from the car parking space to the building. The car parking space shall comply with the provisions of AS2890.6.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

23. The following sanitary facilities shall be provided within the building in accordance with the provisions of AS1428.1 and be suitable for the needs of people with disabilities:

- a. one unisex accessible sanitary facility.
- b. one unisex ambulant sanitary facility.

**{Reason: Compliance with 'Section F; Health & Amenity of the Building Code of Australia.}**

24. Access for people with disabilities shall be provided to and within the building by means of a continuous path of travel in accordance with the provisions of AS1428.1 from:

- a. The main points of a pedestrian entry at the allotment boundary; and
- b. From another accessible building connected by a pedestrian link; and
- c. From any required accessible car parking space on the allotment
- d. Through the principal pedestrian entrance, and through not less than 50% of all pedestrian entrances including the principal pedestrian entrance.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

### **Egress from Building**

25. The required egress door shall be readily openable without a key from the side that faces a person seeking egress from the building, by a single hand downward action or pushing action on a single device which is located between 900 mm and 1,100 mm from the floor.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

26. The required egress door shall swing in the direction of egress from the building unless it is fitted with a device for holding it in the fully open position.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**



## **Emergency Services**

### **Emergency Lighting**

27. Emergency lighting and exit signs shall be provided to the building in accordance with the provisions of Part E4 of the Building Code of Australia.

**{Reason: Compliance with 'Section E: Services and Equipment of the Building Code of Australia.}**

28. Fire safety within the premises must achieve an adequate level of fire safety in accordance with the Environmental Planning and Assessment Regulation 2021 and a report prepared by a suitably qualified person.

The fire safety report shall detail the measures considered appropriate to satisfy the relevant performance requirements of the Building Code of Australia, to protect persons using the building, and to facilitate their egress from the building in the event of fire and to restrict the spread of fire.

The fire safety works are to be included in the Construction Certificate and to be implemented prior to occupation of the new building or part.

**{Reason: To provide a higher level of fire safety throughout the existing portion of the building.}**

### **Portable Fire Extinguishers**

29. The building requires portable fire extinguishers that shall be selected, located and distributed in accordance with AS2444. Additional extinguishers may be required to cover fire risks in relation to special hazard provisions of Clause E1.10 of the Building Code of Australia.

**{Reason: To ensure fire extinguishers are provided in accordance with Clause E1.6 of the Building Code of Australia and AS 2444.}**

### **Final Fire Safety Certificate**

30. Prior to occupation of the building, a Fire Safety Certificate issued by an appropriately qualified person shall be obtained for all the Essential Fire Safety Measures forming part of this consent. A copy of the Fire Safety Certificate shall be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

Each year thereafter, within 12 months, the owner of the building shall ensure these Essential Fire Safety Measures are inspected and Annual Fire Safety Statement issued. A copy shall again be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

**{Reason: To ensure compliance with clause 83 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.}**

### **Stormwater from Roofing**

31. All stormwater from roofing shall be conveyed to the street drainage system by means of pipes where practical, otherwise the stormwater shall be discharged at

least 3 m clear of the building and maintained wholly within the boundaries of the allotment.

**{Reason: To provide proper disposal of the roof water to the street drainage system or alternatively to not permit the buildings footings to be undermined or to cause a nuisance to adjoining properties.}**

### **Sewer Service & Stormwater drainage diagrams**

32. The contracted plumber as the "responsible person" must submit a Sewer Service Diagram (SSD) and stormwater drainage diagram to Leeton Shire Council as the delegated Water Authority, and the owner of the land or owner's agent for all plumbing and drainage work on a sanitary drainage system. The SSD is required to be submitted Prior to the issue of the Occupation Certificate. The plans must comply with the following requirements:

- a. A4 and A3 SSD Templates are available via the Fair-Trading website.
- b. For all drawings larger than A3 only PDF & AutoCAD versions are accepted using the correct Fair Trading SSD legend and sign off template.
- c. All drawn and required text information on the diagram must be complete and legible in a fine point black pen.
- d. SSD must be drawn to a scale. Preferred scales are: 1:100; 1:200; 1:250; 1:500.
- e. North point must be shown on the diagram.
- f. Include only symbols and abbreviations as shown on the template legend.
- g. All lettering and figures are to be drawn clear and legible.
- h. Diagrams are only to show sanitary drainage up to the point of connection within the property boundary, property boundaries and building outlines.
- i. Clearly show the sanitary drainage layout up to the point of connection within the property boundary indicating all internal points, external drainage, trade waste and any greywater treatment / diversion system up to the point of connection with the Network Utility Operator's sewer including any existing sanitary drainage remaining in use on the property
- j. Street name and number (for street frontage) and/or Lot number and DP (deposited plan) number.
- k. Suburb and municipality
- l. if there is no connection to a Network Utility Operator's sewer please label as private sewer, community title, onsite septic tank or AWTS etc.

**{Reason: To comply with the requirement of NSW Fair Trading and Leeton Shire Council as the delegated Water Authority.}**

### **Prior to the issue of an Occupation Certificate**

33. The person benefiting from this consent shall ensure following documentation has been submitted to the principle certifying authority prior to, or with any application for a final occupation certificate:

- a. Installation certification of smoke alarms
- b. Pest Management Certification
- c. Wall and roof truss bracing details from manufacturer.
- d. Glazing certification
- e. Plumbing, drainage and gas fitting certificate of compliance

**{Reason: Compliance with clause 38 (1) Environmental Planning & Assessment (Development Certification & Fire Safety) Regulation 2021 and to ensure adequate information supplied to allow assessment of application for a final occupation certificate.}**

34. Prior to the issue of an Occupation Certificate a Compliance report from an Acoustic Engineer is to be submitted to Council to certify compliance with the acoustic report and recommendations.

**{Reason: to ensure the proposed childcare complies with the recommendations in the acoustic report.}**

35. Application for any Occupation Certificate shall be submitted through the NSW Planning Portal and approved by the Principal Certifying Authority prior to occupation of the building.

**{Reason: Compliance with section 6.9 of the Environmental Planning & Assessment Act 1979.}**

36. The development proposal meets the requirements of the Leeton Shire Council Section 7.12 Developer Contributions Plan and the following contributions are owing:

Total Development Cost: \$1.6M

$\$1,600,000 \times 1\% = \$16K$

The Developer contribution of \$16K is payable prior to the issue of an Occupation Certificate. The developer contribution will be adjusted on an annual basis, based on the Sydney All Groups Consumer Price Index.

**{Reason: Compliance with section 6.9 of the Environmental Planning & Assessment Act 1979.}**

### **Engineering Conditions**

#### **GENERAL CONDITIONS**

37. A Concrete access driveway is to be constructed from the road carriageway to the property boundary for vehicle access to the lot in accordance with the requirements of Council. The existing access will become redundant, and a new access required to be constructed. The new access driveway onto Brobenah Road is to meet Council's standards:

- i. Have a width of six meters maximum with a cut-out of the kerb and gutter and be constructed in accordance with Council's Engineering Guidelines and Standard Drawing numbers RS-049 and RS-050 with Council's Notes.
- ii. The alignment of the access driveway across the verge shall be at right angles to the road.
- iii. The access driveway shall have satisfactory clearance to any power pole or telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the Developer's expense.

- iv. The access driveway shall be of adequate thickness to accommodate Light truck loading.
- v. The access driveway shall be provided with a non-slip finish.
- vi. The access driveway shall meet Australian Standard 2890.1 for vertical clearance.
- vii. The new reinforced concrete access driveway shall be constructed at the location shown on the drawings provided with the Development Application; and
- viii. The verge adjacent to either side of the access driveway shall be reinstated to surrounding conditions and finished flush with the new vehicle access driveways.
- ix. Prior to sealing or concreting the driveways, notice must be made to the council for inspection of completed gravel surface and formwork.

Advisory Note:

The installation of the vehicle access driveway is an approved structure in accordance with section 138 of the *Roads Act 1993*. The ongoing maintenance and/or repair of the vehicle access driveway is the responsibility of the adjoining owner in accordance with section 142 of the *Roads Act 1993*.

**{Reason: to provide for a suitable vehicular access to the development in accordance with Council's minimum standards and minimize impact on pedestrian access facilities.}**

38. All vehicular movement when entering and leaving the site shall be in a forward direction to ensure that the development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.

**{Reason: to provide a level of safety in relation to vehicle movements onto and off the site.}**

39. Off streetcar parking associated with the development is to be in accordance with AS2890.1-2004, AS 2890.2-2002 and AS 2890.5. Delineation and signage shall be provided to distinguish designated parking spaces.

Details of proposed access, design and construction are to be submitted to Council and approved prior to any commencement of works. The design should allow for future expansion to be possible.

**{Reason: to provide car parking spaces commensurate with the level of development.}**

40. All internal driveway and parking areas are to be paved, with segmental pavers, reinforced concrete, hot mix, bitumen seal, or other suitable material.

**{Reason: to provide a surface that will withstand the proposed traffic movements and to suppress dust levels so as not to cause a nuisance to adjoining properties.}**

41. The developer is to provide sufficient area on site for loading and unloading of delivery vehicles which will also allow for turning paths of service vehicles.

**{Reason: to provide a level of safety to operators by having these practices undertaken on site and not from the public road.}**

42. The Developer is responsible for all costs to extend or modify all services for the development.

**{Reason: the developer is responsible for all the extensions and connections of Council's services required for the development.}**

43. Stormwater runoff from the development is to drain so that it does not exceed the un-developed stormwater runoff onto adjoining or nearby properties.

The drainage design shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event.

Stormwater is to be directed to the underground piped drainage system in Karri Road. A method of routing this stormwater must be determined. Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:

- I. All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage.
- II. All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented.
- III. Any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted.
- IV. All overflow from rainwater tanks shall be collected and piped to the legal point of discharge.
- V. Only a single point of discharge from the development site is permitted to the legal point of stormwater discharge.

**{Reason: To ensure stormwater is controlled adequately.}**

44. All earthworks, filling, building, driveways, or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.

**{Reason: To prevent the proposed development having a detrimental effect on the development itself, or the developments existing on the adjoining lands.}**

45. Kerb and gutter are to be provided for the full frontage of the allotment to Brobenah Road. This is to be designed in accordance with relevant Standards and guidelines that allows accommodation of parallel parking along the frontage of the property. The profile of the kerb and gutter is to be in accordance with 'barrier type' kerb profile.

**{Reason: to provide for a minimum standard in relation to kerb and gutter and drainage installation for the development.}**

46. The area between the edge of bitumen and the kerb is to be gravelled with a minimum of 250mm compacted thickness of approved gravel and provided with a sealed bitumen surface consisting of a double application of binder and aggregate using 14mm and 7mm crushed stone respectively.

**{Reason: to provide for a minimum standard in relation to road widening works in requirement for the development.}**

47. Road widening (BAR Treatment) is required on the Eastern Side of Brobenah Road from Catalpa Road to the Site entrance to accommodate vehicles on the Sub-Arterial Road (Brobenah Road) to continue flow whilst vehicles are stopped awaiting entry or exit of vehicles from the developed site. This should be incorporated into a traffic management plan to ensure all vehicles are safely catered for and the peak volume of turning vehicles movements are catered for adequately.

The development shall be constructed wholly within the confines of the property boundary. No portion of the proposed structure including any fencing and/or gates shall encroach onto or over adjoining properties or upon the road reserve area.

**{Reason: To ensure that the development does not encroach on any other adjacent land or reserve.}**

48. The developer is to contact Council's Liquid Trade Waste representatives to determine the requirements for the activities proposed to be conducted on the site.

Prior to the Commencement of Works, Council's written consent shall be provided to the Principal Certifying Authority regarding Liquid Trade Waste requirements. There is to be no discharge of wastewater to Council's stormwater system.

**{Reason: to ensure that the proposed development can be appropriately serviced and to comply with Section 68 Part C (4) of the Local Government Act 1993 and in accordance with Council's Liquid Trade Waste Policy.}**

**PRIOR TO COMMENCEMENT OF WORKS**

49. A separate Council approval under Section 138 of the *Roads Act 1993* is required prior to any works commencing within the road reserve, including the construction of access driveways for this development. An application must be submitted to Council and approved prior to issue of Construction Certificate for the building works.

The Section 138 application is to include:

- I. Detailed construction plans, including a long section where appropriate.
- II. ii. Details of the contractors engaged to undertake works within the road reserve. The contractor must maintain public liability insurance cover to the minimum value of \$20M. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.
- III. iii. A Traffic Control Plan (TCP) that has been prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3 2009 and the RMS current version of the "Traffic Control at Worksites" manual.

**{Reason: Compliance with Roads Act 1993 Section 138 for undertaking work on a public road reserve}**

### **DURING WORKS**

50. Vehicles used in the construction of the development are to be managed such that they do not inhibit traffic flow within the road reserve. At no time are construction or delivery vehicles to block the road or private accesses without prior approval of Council through a Section 138 Application under the Roads Act.

**{Reason: to ensure traffic effects are minimised.}**

51. The footpath and/or road reserve are not to be used for construction purposes or placing of building materials (without Council's prior consent) to ensure safe and unobstructed access for pedestrians. Where necessary, application may be made by contacting the Operations Division of Council.

**{Reason: To allow pedestrian traffic during construction.}**

52. Prior to the commencement of any works within the road reserve, approved Traffic Control Plans are to be implemented. Approved TCPs are to be maintained for the full duration of works.

**{Reason: to protect the public where interruptions to normal traffic flow for vehicles and pedestrians are expected.}**

53. Any damage to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of public infrastructure. Any damage to Council's infrastructure which is obvious before construction is to be immediately notified to Council to avoid later conflict.

**{Reason: To ensure that any damage to Council's property is at the full cost to the developer. Environmental Planning & Assessment Act 1979 Section 4.15 (6) (a)}**

### **PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE**

54. Prior to the issue of an Occupation Certificate, a Certificate of Compliance under the Water Management Act 2000 is to be obtained from Council.

### **Advisory Note**

#### **Certificate of Compliance – Water Management Act 2000**

The developer is to contact Council's Water and Wastewater Department to apply for the compliance certificate.

Prior to the issue of the Certificate of Compliance, developer charges for water and sewer must be paid to Council in accordance with Council's Revenue Policy 2023/2024. These charges are calculated based on the additional water and sewerage load that the proposed development generates. The headworks charges required to be paid for the subject development are as follows:

**Water: \$ 14,206.68**

**Sewer: \$ 25,872.00**

**TOTAL: \$ 40,078.68**

**{Reason: to adequately service the development and the developer is responsible for contributing a proportion of the cost of existing and future infrastructure that will benefit the development.}**

### **ONGOING USE**

55. The sealing of vehicle access driveways is to be always maintained.

**{Reason: to ensure the access remains suitable and the Road Reserve is maintained safe with no obstructions.}**

---

## **REPORT**

### **(a) Background**

The proposed development is for the erection of a centre-based childcare facility for 79 children, carpark and landscaping works. The facility will be a single storey building and will consist of at grade car parking area, reception, meeting room/office, staff room, kitchen, laundry, amenities, storerooms and children age based function rooms with linking bathroom and outdoor play areas.

The proposal will cater for 79 children and employ 18 full-time equivalent staff members. The days and operating hours are as follows:

- Children in attendance - Monday to Friday (excluding public holidays) 7:00am to 6:30pm
- Children drop-off would most likely be at a later time and pick-up at an earlier time.

The lot is zoned R1 General Residential and, in accordance with the Leeton Local Environmental Plan, a centre-based childcare facility is permitted in the zone.

The subject site is legally identified as Lot 1 DP 871761 and is known as 39-45 Brobenah Road Leeton. The corner site is on the western side of Brobenah Road and the southern side of Karri Road. It is rectangular in shape and has an area of 3022 square metres.

The lot contains an existing shed which will be retained for storage and parking purposes. The frontage to Brobenah Road is 72.36 metres and the frontage to Karri Road is 40.514 metres. There is no access from Karri Road to the proposed development. The surrounding area is predominantly characterised by mixed residential uses.

For the purpose of this application a centre-based childcare 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 childcare,
  - iii. out-of-school-hours care (including vacation care),
  - iv. preschool care

The application was notified to the adjoining landowners and two submissions were received listing a range of objections to the proposal.

---



## **(b) Discussion**

Adjoining landowners were contacted in writing by Council and advised of the proposed development and invited to make a submission. As a result, two submissions (both objecting) have been received. Note: One of the two submissions received is a petition signed by 6 adjoining residents. The objections are at **(Attachment 2)**.

The submissions raised the following matters:

1. Various operational matters including who will run the childcare facility. Response: The operational questions are not planning related. If consent is granted by Council, it will be subject to conditions of consent which will ensure operation of the facility has minimum environmental impact.
2. Parking and traffic (including pedestrian traffic). Response: The childcare facility complies with Council's Development Control Plan car parking requirements and no adverse traffic impacts are likely to result given the size and scale of the proposed development.
3. Future land values and local Council rates. Response: This is not a relevant planning consideration.
4. Acoustic fencing height. Response: Acoustic fencing will be provided to all boundaries as detailed in this report **(Attachment 3)**.
5. Sewerage system. Response: The subject site is fully serviced including the provision of sewer infrastructure. No adverse impacts are anticipated.
6. Rezoning. Response: No rezoning of the subject land is required.
7. Noise impact **(Attachment 3)** on Leeton Masonic Village. Response: If consent is granted by Council, conditions are recommended which aim to reduce any adverse impact on adjoining neighbours, including residents of the Leeton Masonic Village.
8. Landscaping appropriateness. Response: The concerns raised will be monitored as landscaping matures. No adverse impacts are anticipated.

## **(c) Options**

THAT Council:

1. Approves the application with recommended conditions. ***This is the recommended option.***
2. Approves the application with additional conditions.
3. Refuses the application.

## **IMPLICATIONS TO BE ADDRESSED**

### **(a) Financial**

If DA is approved:

- Income to Council with the sale of the land.
- Developer responsible for the relocation of the Community Transport Shed.
- Section 7.12 Developer Contributions of \$16K.

**(b) Policy**

The application has been notified and assessed in accordance with the following policies;

Leeton Shire Council Development Application Objections.  
Leeton Shire Council Local Environmental Plan 2014  
Leeton Community Participation Plan 2019  
Leeton Shire Council Development Control Plan 2022  
Conflicts of Interest Policy (when dealing with development applications lodged by Council staff, Councillors or Council)

**(c) Legislative/Statutory**

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*, as amended and Building Code of Australia.

If Council declines the application, the applicant can take the matter to the Land and Environment Court.

**(d) Risk**

There is a risk that neighbours will complain about noise, parking issues and traffic issues. Proposed conditions of consent will mitigate noise, parking and traffic issues.

**CONSULTATION**

**(a) External**

The application was placed on public notification. This included notifying adjoining landowners.

**(b) Internal**

The application was referred to Council's engineering section for comment.  
Executive Manager Economic and Community Development

**LINK/S TO THE DELIVERY PROGRAM/OPERATIONAL PLAN (DPOP)**

Under the Key Priority Area CSP FOCUS AREA 3 - A thriving regional economy within Council's adopted Delivery Program/Operational Plan – DELIVERY PROGRAM FUNCTIONAL AREA 5 - Planning, Building and Public Health - DELIVERY PROGRAM ACTIVITY 5.2 - Provide helpful, friendly and timely planning and building assessment services for development applications, including development approvals (DAs); construction certificates (CCs), occupation certificates (OCs), planning certificates (PCs) and complying development certificates (CDCs) - OPERATIONAL PLAN ACTIVITY 5.2.1 - Provide timely, accurate and professional development services to the Shire".

**ATTACHMENTS**

- 1** Development Application - Childcare Facility - DA 69/2023
- 2** Submissions - Received - DA 69/2023
- 3** Acoustic Report - DA 69/2023

**REPORT OF DEVELOPMENT APPLICATION 69/2023**  
**Pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979**

**APPLICATION DETAILS**

<b>Application No.:</b>	69/2023
<b>Modification No.:</b>	N/A
<b>Council File No.:</b>	DA 69/2023 PAN 342090
<b>Date of Lodgement:</b>	19/06/2023
<b>Applicant:</b>	CSKY Services Pty Ltd
<b>Proposal:</b>	Construct centre based child care facility for 79 children, carpark and landscaping works.
<b>Description of Modification:</b>	N/A
<b>Development Cost:</b>	\$1,600,000.00
<b>Assessment Officer:</b>	Ian Dencker B.E.S.T.
<b>Determination Body:</b>	Council
<b>Other Approvals:</b>	Nil
<b>Type of Application:</b>	Development Application
<b>Concurrence Required:</b>	No
<b>Referral:</b>	Internals
<b>Is this a Council related DA:</b>	Yes
<b>Has this DA been submitted by a Council Staff Member:</b>	No
<b>Has this DA been submitted by a Councillor:</b>	No
<b>Adjoining Owners Notification:</b>	Yes
<b>Advertising:</b>	Yes
<b>Owner's Consent Provided:</b>	Yes

**SITE DETAILS**

<b>Subject Land:</b>	39-45 Brobenah Road Leeton 2705 Lot: 1 DP: 871761
<b>Owner:</b>	Leeton Shire Council

**REPORT**

**Description of Development**

**1. Development Proposal**

The proposed development is for the erection of a centre-based child care facility for 79 children, carpark and landscaping works. The facility will be a single storey building and will consist of at grade car parking area, reception, meeting room/office, staff room, kitchen, laundry, amenities, store rooms and children age based function rooms with linking bathroom and outdoor play areas.

The proposal will cater for 79 children and employ 18 full-time equivalent staff members. The days and operating hours are as follows:

- Children in attendance - Monday to Friday (excluding public holidays) 7:00am to 6:30pm
- Children drop-off would most likely be at a later time and pick-up at an earlier time.

### **The Site and Locality**

The subject site is legally identified as Lot 1 DP 871761 and is known as 39-45 Brobenah Road Leeton. The corner site is on the western side of Brobenah Road and the southern side of Karri Road. It is rectangular in shape and has an area of 3022 square metres.

The lot contains an existing shed which will be retained for storage and parking purposes. The frontage to Brobenah Road is 72.36 metres and the frontage to Karri Road is 40.514 metres. There is no access from Karri Road to the proposed development. The surrounding area is predominantly characterised by mixed residential uses.

### **Easements and Covenants**

There are no known easements or covenants across the subject site.

### **Previous Development Consents**

DA166/2004 – Narrandera and Leeton community transport – construction of shed.

## **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 4.15(1)**

### **Section 4.15(a)(i) – The provisions of any environmental planning instrument (EPI)**

#### **Leeton Local Environmental Plan 2014**

Under the provisions of the LLEP 2014 the land is zoned R1 General Residential. The objectives of the R1 Zone are:

- *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 facilitate development of social and community infrastructure to meet the needs of future 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 minimise the impact of non-residential uses and ensure they are in character and compatible with surrounding development.*

The proposal for a centre-based child care facility for 79 children, carpark, and landscaping works, directly furthers the objectives of the zone.

### **Part 2 Permitted or prohibited development Land Use**

The development is defined as a centre-based child care facility and is permitted with consent.

A centre-based child care facility is defined as:

**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.

but does not include—

(c) a building or place used for home-based child care or school-based child care, or

(d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or

(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or

(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or

(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Note—

Centre-based child care facilities are a type of early education and care facility—see the definition of that term in this Dictionary.

### **Part 3 Exempt & Complying Development**

The proposed development is not Exempt or Complying Development. The application is seeking consent.

### **Part 4 Principal development standards**

#### 4.3 Height of Buildings

(1) The objectives of this clause are as follows—

- (a) to limit the height of buildings,
- (b) to promote development that is compatible with the height of surrounding development and conforms to and reflects natural landforms by stepping development on sloping land to follow the natural gradient,
- (c) to promote the retention and, if appropriate, sharing of existing views,
- (d) to maintain solar access to new and existing dwellings and public places and to promote solar access to new buildings,
- (e) to maintain privacy for residents of existing dwellings and promote privacy for residents of new buildings.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The subject site is mapped on the height of buildings map as having a maximum height of 8.5m. The proposed development will comply with the maximum height.

#### 4.4 Floor Space Ratio

(1) *The objectives of this clause are as follows—*

(a) *to identify maximum floor space ratios in those areas identified on the Floor Space Ratio Map,*

(b) *to facilitate a variety of housing types,*

(c) *to ensure that the density, bulk and scale of development integrates with the streetscape and character of the locality,*

(d) *to ensure that development is compatible with the existing and desired built form and character of the locality,*

(e) *to provide a high level of amenity for residential areas and ensure adequate provision for vehicle and pedestrian access, private open space and landscaping.*

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The subject site is mapped on the floor space ratio map as having a maximum floor space ratio of 0.5:1. The proposed development will comply with the maximum floor space ratio.

### **Part 5 Miscellaneous provisions**

#### 5.21 Flood Planning

(1) *The objectives of this clause are as follows—*

(a) *to minimise the flood risk to life and property associated with the use of land,*

(b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*

(c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*

(d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

(2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—*

(a) *is compatible with the flood function and behaviour on the land, and*

(b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*

(c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*

(d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*

(e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

(3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—*

(a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*

(b) *the intended design and scale of buildings resulting from the development,*

(c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*

*(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

The proposal is compatible with the flood function and behaviour on the site, it will not adversely affect flood behaviour, will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.

The proposal incorporates an adequate finished ground floor level above the 1% AEP flood level. The proposal will have an evacuation in event of a flood or other emergencies.

## **Part 6 Additional Local Provisions**

### 6.1 Earthworks

*(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

*(2) Development consent is required for earthworks unless—*

*(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*

*(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*

*(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—*

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

*(b) the effect of the development on the likely future use or redevelopment of the land,*

*(c) the quality of the fill or the soil to be excavated, or both,*

*(d) the effect of the development on the existing and likely amenity of adjoining properties,*

*(e) the source of any fill material and the destination of any excavated material,*

*(f) the likelihood of disturbing relics,*

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The development involves minor earthworks limited to the building envelope which is considered acceptable. Should consent be granted, it is recommended that a standard condition be applied to ensure suitable measures are implemented on-site to minimise on and off-site impacts.

### 6.4 Groundwater vulnerability

*(1) The objectives of this clause are as follows—*

*(a) to maintain the hydrological functions of key groundwater systems,*

*(b) to protect vulnerable groundwater resources from depletion and contamination as a result of development.*

*(2) This clause applies to land identified as "Groundwater vulnerable" on the Groundwater Vulnerability Map.*



(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following—

(a) the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),

(b) any adverse impacts the development may have on groundwater dependent ecosystems,

(c) the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),

(d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The groundwater will not be accessed or intercepted as part of the proposal. The proposal will be connected to reticulated sewer and stormwater drainage services.

#### 6.12 Essential Services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

(a) the supply of water,

(b) the supply of electricity,

(c) the disposal and management of sewage,

(d) stormwater drainage or on-site conservation,

(e) suitable vehicular access.

The subject site is connected to all essential services. Council's reticulated water supply and sewerage is available and connected. Mains power is available. The site has access to a sealed road.

### **State Environmental Planning Policies (SEPPs)**

#### **SEPP (Resilience and Hazards) 2021**

Clause 4.6 of the SEPP requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use.

The application is supported by a Baseline Contamination Assessment prepared by Aitken Rowe Testing Laboratories dated September 2022. The assessment concludes that the site is suitable for the proposed use as a child care centre and that no further investigation of the contamination of the underlying materials is considered necessary in the playground area of the site.

No further consideration of the SEPP is required.

**SEPP (Transport and Infrastructure) 2021****Subdivision 2 Development likely to affect an electricity transmission or distribution network***2.48 Determination of development applications—other development*

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,

(b) development carried out—

(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or

(ii) immediately adjacent to an electricity substation, or

(iii) within 5m of an exposed overhead electricity power line,

(c) installation of a swimming pool any part of which is—

(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or

(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,

(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

The proposed child care facility will not be sited within 5m of an overhead electricity power line. Accordingly, the application has not been required to be referred to Essential Energy for comment.

**Part 3.3 Early education and care facilities—specific development controls***3.22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development*

(1) This section applies to development for the purpose of a centre-based child care facility if—

(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or

(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.

(2) The consent authority must not grant development consent to development to which this section applies except with the concurrence of the Regulatory Authority.

(3) The consent authority must, within 7 days of receiving a development application for development to which this section applies—

(a) forward a copy of the development application to the Regulatory Authority, and

(b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.

(4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the Children (Education and Care Services) National Law (NSW).

(5) The Regulatory Authority is to give written notice to the consent authority of the Authority's determination within 28 days after receiving a copy of the development application under subsection (3).

Note—

The effect of section 4.13(11) of the Act is that if the Regulatory Authority fails to inform the consent authority of the decision concerning concurrence within the 28 day

period, the consent authority may determine the development application without the concurrence of the Regulatory Authority and a development consent so granted is not voidable on that ground.

(6) The consent authority must forward a copy of its determination of the development application to the Regulatory Authority within 7 days after making the determination.

(7) In this section—

Regulatory Authority means the Regulatory Authority for New South Wales under the Children (Education and Care Services) National Law (NSW) (as declared by section 9 of the Children (Education and Care Services National Law Application) Act 2010).

Note—

Concurrence to development may be granted subject to conditions. A development consent subject to concurrence may be voidable if it is granted not subject to any conditions of the concurrence. (See section 4.13 of the Act.)

Not relevant - the proposed floor area and outdoor space complies with regulation 107 (indoor unencumbered space requirements) and regulation 108 (outdoor unencumbered space requirements) respectively.

### 3.23 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.

The Child Care Planning Guideline has been taken into consideration during the assessment.

### 3.24 Centre-based child care facility in certain zones—additional matters for consideration by consent authorities

(1) The object of this section is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting a centre-based child care facility on land in a prescribed zone.

(2) The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in a prescribed zone—

(a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,

(b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,

(c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.

(3) The matters referred to in subsection (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of a centre-based child care facility.

(4) In this section—

prescribed zone means any of the following land use zones—

(a) Zone E4 General Industrial,

(b) Zone E5 Heavy Industrial,

(c) Zone IN1 General Industrial,

(d) Zone IN2 Heavy Industrial.

The proposed child care facility is compatible with the neighbouring uses and is not within proximity of any restricted premises, or hazardous land uses.

3.25 *Centre-based child care facility—floor space ratio*

(1) Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.

(2) This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.

The above clause is not relevant to the subject site as it is zoned R1 General Residential.

3.26 *Centre-based child care facility—non-discretionary development standards*

(1) The object of this section is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.

(2) The following are non-discretionary development standards for the purposes of section 4.15(2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—

(a) location—the development may be located at any distance from an existing or proposed early education and care facility,

(b) indoor or outdoor space

(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or

(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,

(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,

(d) colour of building materials or shade structures—the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.

(3) To remove doubt, this section does not prevent a consent authority from—

(a) refusing a development application in relation to a matter not specified in subsection (2), or

(b) granting development consent even though any standard specified in subsection (2) is not complied with.

There are no conflicting or inconsistent provisions under the LEP. The subject site is not a State or Local Heritage Item or located within the Heritage Conservation area.

3.27 *Centre-based child care facility—development control plans*

(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility—

(a) operational or management plans or arrangements (including hours of operation),

(b) demonstrated need or demand for child care services,

(c) proximity of facility to other early education and care facilities,

(d) any matter relating to development for the purpose of a centre-based child care facility contained in—

- (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or
  - (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).
- (2) This section applies regardless of when the development control plan was made.

There are no conflicting or inconsistent provisions under the DCP.

**Department of Planning, Industry and Environment Child care planning guideline (September 2021)**

3.1 Site selection and location

Considerations

*Objective: To ensure that appropriate zone considerations are assessed when selecting a site.*

*C1*

*For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses consider:*

- the acoustic and privacy impacts of the proposed development on the residential properties
- the setbacks and siting of buildings within the residential context
- visual amenity impacts (e.g. additional building bulk and overshadowing, local character)
- traffic and parking impacts of the proposal on residential amenity and road safety

*For proposed developments in commercial and industrial zones, consider:*

- potential impacts on the health, safety and wellbeing of children, staff and visitors with regard to local environmental or amenity issues such as air or noise pollution and local traffic conditions
- the potential impact of the facility on the viability of existing commercial or industrial uses.

*For proposed developments in public or private recreation zones, consider:*

- the compatibility of the proposal with the operations and nature of the community or private recreational facilities
- if the existing premises is licensed for alcohol or gambling
- if the use requires permanent or casual occupation of the premises or site
- the availability of on-site parking
- compatibility of proposed hours of operation with surrounding uses, particularly residential uses
- the availability of appropriate and dedicated sanitation facilities for the development.

*For proposed developments on school, TAFE or university sites in Special Purpose zones consider:*

- the compatibility of the proposal with the operation of the institution and its users
- the proximity of the proposed facility to other uses on the site, including premises licensed for alcohol or gambling
- proximity to sources of noise, such as places of entertainment or mechanical workshops
- proximity to odours, particularly at agricultural institutions
- previous uses of a premises such as scientific, medical or chemical laboratories, storage areas and the like.

The proposal complies with the above considerations and have been considered in the site analysis and design response to the acoustic report. The acoustic report recommends acoustic fencing for the control of any noise created.

*Objective: To ensure that the site selected for a proposed child care facility is suitable for the use.*

**C2**

*When selecting a site, ensure that:*

- *the location and surrounding uses are compatible with the proposed development or use*
- *the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards*
- *there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed*
- *the characteristics of the site are suitable for the scale and type of development proposed having regard to:
 
  - *length of street frontage, lot configuration, dimensions and overall size*
  - *number of shared boundaries with residential properties**
- *the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas*
- *where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use.*

*Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item.*

- *there are suitable and safe drop off and pick up areas, and off and on street parking*
- *the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use*
- *the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities*
- *it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.*

The proposal complies with the above considerations and is considered in the site analysis and design response. The site is partly affected by the "flood planning level" which will be resolved by ensuring the child care facility is constructed with an appropriate minimum finished floor level.

The proposal is not being constructed in a Heritage Conservation Area or is not within proximity of a Heritage Item.

*Objective: To ensure that sites for child care facilities are appropriately located.*

**C3**

*A child care facility should be located:*

- *near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship*
- *near or within employment areas, town centres, business centres, shops*
- *with access to public transport including rail, buses, ferries*

- *in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.*

The proposal complies, the subject site is within proximity to Leeton's CBD and compatible social uses. There is pedestrian connectivity via grassed road verges to public footpath network.

*Objective: To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.*

**C4**

*A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:*

- *proximity to:*
  - *heavy or hazardous industry, waste transfer depots or landfill sites*
  - *Liquefied Petroleum Gas (LPG) tanks or service stations*
  - *water cooling and water warming systems*
  - *odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses*
  - *extractive industries, intensive agriculture, agricultural spraying activities*
- *any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.*

The proposal complies as the subject site is not within proximity to and hazardous uses.

### 3.2 Local character, streetscape and the public domain interface

*Considerations*

*Objective: To ensure that the child care facility is compatible with the local character and surrounding streetscape.*

**C5**

*The proposed development should:*

- *contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape*
- *build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place*
- *reflect the predominant form of surrounding land uses, particularly in low density residential areas*
- *recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours*
- *include design and architectural treatments that respond to and integrate with the existing streetscape and local character*
- *use landscaping to positively contribute to the streetscape and neighbouring and neighbourhood amenity*
- *integrate car parking into the building and site landscaping design in residential areas*
- *in R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved.*

The proposal complies, the child care facility will be a single storey building which will match and integrate with the existing streetscape character elements and conditions.

The proposed is not being constructed in an R2 Zone.

*Objective: To ensure clear delineation between the child care facility and public spaces*

*C6*

*Create a threshold with a clear transition between public and private realms, including:*

- fencing to ensure safety for children entering and leaving the facility*
- windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community*
- integrating existing and proposed landscaping with fencing.*

The proposal complies, the site will be fully fenced. The two streets are the only public domain and windows will face towards the streets.

*C7*

*On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.*

Not relevant to the proposed development, there will be one entry and exit point.

*C8*

*Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:*

- clearly defined street access, pedestrian paths and building entries*
- low fences and planting which delineate communal/private open space from adjoining public open space*
- minimal use of blank walls and high fences.*

Not relevant to the proposed development, the development does not adjoin any public parks or open space.

*Objective: To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.*

*C9*

*Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.*

There are no Heritage Listed Items and the site is not located within a Heritage Conservation Area. Noise barrier fences to boundary fencing to all boundaries are proposed in accordance with the acoustic consultant's report. See C10 below for further details.

*C10*

*High solid acoustic fencing may be used when shielding the facility from noise on classified roads.*

*The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.*

In accordance with the Rodney Stevens Acoustics Noise Impact Assessment submitted with the application, noise barrier fences to boundary fencing to all



boundaries are proposed in accordance with the acoustic consultant's report. Specifically, the following is proposed:

- 2.1m high barrier with an angled cantilever on top (total 2.6m high) along the western outdoor playground boundary
- 2.1m solid barrier along the remaining western boundary and southern boundary
- 1.8m solid barrier on the along the western, northern and eastern boundary of the site.

The proposed acoustic fencing is acceptable, and will ensure that the amenity of neighbours and children attending the facility is not unduly compromised.

### *3.3 Building orientation, envelope, building design and accessibility*

#### *Considerations*

*Objective: To respond to the streetscape and site, mitigate impacts on neighbours, while optimising solar access and opportunities for shade.*

#### *C11*

*Orient a development on a site and design the building layout to:*

- *ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by*
  - *facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties*
  - *placing play equipment away from common boundaries with residential properties*
  - *locating outdoor play areas away from residential dwellings and other sensitive uses*
- *optimise solar access to internal and external play areas*
- *avoid overshadowing of adjoining residential properties*
- *minimise cut and fill*
- *ensure buildings along the street frontage define the street by facing it*
- *ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.*

The proposal complies, the child care facility will be constructed with appropriate boundary setbacks and window treatments. The acoustic report recommended the installation of acoustic fences to reduce the impact of noise to surrounding residents.

*Objective: To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised.*

#### *C12*

*The following matters may be considered to minimise the impacts of the proposal on local character:*

- *building height should be consistent with other buildings in the locality*
- *building height should respond to the scale and character of the street*
- *setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility*
- *setbacks should provide adequate access for building maintenance*
- *setbacks to the street should be consistent with the existing character.*

*Where a Local Environmental Plan or Development Control Plan do not specify a floor space ratio for the R2 Low Density Residential zone, a floor space ratio of 0.5:1 is to apply to a child care facility in the R2 zone.*

The proposal complies, the child care facility will be a single storey building which will be consistent with single storey dwellings in the surrounding locality. The building will be setback to allow for adequate privacy for children and surrounding landowners.

The proposal is not within the R2 Zone.

*Objective: To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context.*

#### C13

*Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings.*

*Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.*

Not relevant, Councils DCP contains building setback controls.

#### C14

*On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.*

The proposal complies.

*Objective: To ensure that buildings are designed to create safe environments for all users.*

#### C15

*Entry to the facility should be limited to one secure point which is:*

- located to allow ease of access, particularly for pedestrians*
- directly accessible from the street where possible*
- directly visible from the street frontage*
- easily monitored through natural or camera surveillance*
- not accessed through an outdoor play area.*
- in a mixed-use development, clearly defined and separate from entrances to other uses in the building.*

The proposal complies, entry to the facility is limited to one point.

*Objective: To ensure that child care facilities are designed to be accessible by all potential users.*

#### C16

*Accessible design can be achieved by:*

- providing accessibility to and within the building in accordance with all relevant legislation*
- linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry*

- *providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible*
- *minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.*

The proposal complies, the facility is located on one level and flat ground and will be accessible.

### 3.4 Landscaping

#### Considerations

*Objective: To provide landscape design that contributes to the streetscape and amenity.*

#### C17

*Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.*

*Use the existing landscape where feasible to provide a high quality landscaped area by:*

- *reflecting and reinforcing the local context*
- *incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.*

The proposal complies, appropriate landscaped area will be provided.

### 3.5 Visual and acoustic privacy

#### Considerations

*Objective: To protect the privacy and security of children attending the facility.*

#### C19

*Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.*

Not relevant the proposal is not a mixed-use development.

#### C20

*Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:*

- *appropriate site and building layout*
- *suitably locating pathways, windows and doors*
- *permanent screening and landscape design.*

The proposal complies, there are no adjoining public areas.

*Objective: To minimise impacts on privacy of adjoining properties.*

#### C21

*Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:*

- *appropriate site and building layout*
- *suitable location of pathways, windows and doors*

- *landscape design and screening.*

The proposal complies.

*Objective: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.*

#### C22

*A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:*

- *provide an acoustic fence along any boundary where the adjoining property contains a residential use. An acoustic fence is one that is a solid, gap free fence*
- *ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.*

The proposal complies, the acoustic report recommends that an acoustic fence be constructed along the boundaries of adjoining residential dwellings.

The air conditioning and plant equipment will be screened.

#### C23

*A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:*

- *identify an appropriate noise level for a child care facility located in residential and other zones*
- *determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use*
- *determine the appropriate height of any acoustic fence to enable the noise criteria to be met.*

The proposal complies, the development application is accompanied by an acoustic report prepared by a suitable qualified acoustic professional which recommends acoustic fencing.

### 3.6 Noise and air pollution

#### *Considerations*

*Objective: To ensure that outside noise levels on the facility are minimised to acceptable levels.*

#### C24

*Adopt design solutions to minimise the impacts of noise, such as:*

- *creating physical separation between buildings and the noise source*
- *orienting the facility perpendicular to the noise source and where possible buffered by other uses*
- *using landscaping to reduce the perception of noise*
- *limiting the number and size of openings facing noise sources*
- *using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)*

- *using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits*
- *locating cot rooms, sleeping areas and play areas away from external noise sources.*

The proposal complies, the development has been designed and sited to minimise any impacts of noise. Additionally, the acoustic report has recommended the construction of acoustic fences on the external boundaries.

#### C25

*An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:*

- *on industrial zoned land*
- *where the ANEF contour is between 20 and 25*
- *along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007*
- *on a major or busy road*
- *other land that is impacted by substantial external noise.*

Not relevant to the proposed development, the subject site is not located in any of the above locations.

*Objective: To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development.*

#### C26

*Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.*

Not relevant, the proposed development is not located in any of the above listed locations.

#### C27

*A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.*

*The air quality assessment report should evaluate design considerations to minimise air pollution such as:*

- *creating an appropriate separation distance between the facility and the pollution source.*
- *The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution*
- *using landscaping to act as a filter for air pollution generated by traffic and industry.*
- *Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway*
- *incorporating ventilation design into the design of the facility.*

Not relevant, the proposal is not located within an industrial area or close to a major road.

### 3.7 Hours of operation

#### Considerations

*Objective: To minimise the impact of the child care facility on the amenity of neighbouring residential developments.*

#### C28

*Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non residential land uses.*

#### C29

*Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.*

The predominant land use surrounding the development is generally residential. The opening times of 7:00am to 6:30pm comply. Surrounding development is not densely populated and therefore any impacts of noise are minimised.

### 3.8 Traffic, parking and pedestrian circulation

#### Considerations

*Objective: To provide parking that satisfies the needs of users and the demand generated by the centre and to minimise conflicts between pedestrians and vehicles.*

#### C30

*Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.*

*Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:*

*Within 400 metres of a railway or Metro station within Greater Sydney:*

- 1 space per 10 children
- 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.

*In other areas:*

- 1 space per 4 children.

*A reduction in car parking rates may be considered where:*

- the proposal is an adaptive reuse of a heritage item
- the site is in a B8 Metropolitan Zone or other high-density business or residential zone
- the site is in proximity to high frequency and well connected public transport
- the site is co-located or in proximity to other uses where parking is appropriately provided (for example business centres, schools, public open space, public or commercially operated car parks)
- there is sufficient on street parking available at appropriate times within proximity of the site.

The proposed number of parking spaces comply with Table 5 Community Land Use Types for Child Care Centres which requires 1 space per 4 children plus 1 space per 2 employees which equates to 29 car parking spaces which has been provided.

#### C31

*In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.*

Not relevant to the proposed development, the subject site is in a residential zone.

#### C32

*A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses, to optimise the safety and convenience of the parking area(s) and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:*

- *the amenity of the surrounding area will not be affected*
- *there will be no impacts on the safe operation of the surrounding road network.*

A Traffic Impact Assessment Report has not been submitted with the development application. Internal assessment has not identified any adverse traffic impacts.

*Objective: To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.*

#### C33

*Alternate vehicular access should be provided where child care facilities are on sites fronting:*

- *a classified road*
- *roads which carry freight traffic or transport dangerous goods or hazardous materials.*
- *The alternate access must have regard to:*
- *the prevailing traffic conditions*
- *pedestrian and vehicle safety including bicycle movements*
- *the likely impact of the development on traffic.*

Access to the subject site via Brobenah road is adequate and appropriate given the prevailing speed limit and safe intersection sight distance.

#### C34

*Child care facilities proposed within cul-de-sacs or via narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.*

*Objective: To provide a safe and connected environment for pedestrians both on and around the site.*

#### C35

*The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:*

- *separate pedestrian access from the car park to the facility*
- *defined pedestrian crossings and defined/separate paths included within large car*
- *parking areas*

- *separate pedestrian and vehicle entries from the street for parents, children and visitors*
- *pedestrian paths that enable two prams to pass each other*
- *delivery, loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities*
- *minimise the number of locations where pedestrians and vehicles cross each other*
- *in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas*
- *vehicles can enter and leave the site in a forward direction*
- *clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.*

The proposal complies, a separate internal footpath is provided.

#### C36

*Mixed use developments should include:*

- *driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks*
- *drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site*
- *parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.*

Not relevant to the proposal as it is not a mixed use development.

#### C37

*Car parking design should:*

- *include a child safe fence to separate car parking areas from the building entrance and play areas*
- *provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards*
- *include wheelchair and pram accessible parking.*

The proposal complies, the entry and exit to the building is gated.

Accessible car parking is provided in accordance with Australian Standards.

### **Section 4.15(1)(a)(ii) – 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**

No relevant planning instrument under this clause is currently the subject of public exhibition or comment.

### **Section 4.15(1)(a)(iii) – The provisions of any development control plan**

#### PART A – INTRODUCTION

##### A.3 Aims and Objectives

*The broad aims of the plan are:*



- a. To provide guidance at the Development Application (DA) stage of new development.
- b. To promote growth and development in the Leeton Local Government Area.
- c. To ensure growth and development occurs in a consistent, orderly and environmentally sustainable manner.
- d. To ensure positive planning outcomes at individual sites are maximised for the benefit of the broader community.

The proposed development complies with the aims and objectives of the DCP.

#### A.6 Relationship to other plans

The plan is to be read in conjunction with other environmental planning instruments, standards, policies and specifications that are relevant to specific aspects of a development proposal.

Go to [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) to obtain relevant information, or navigate to the website using the QR code below.

In the event of an inconsistency between the plan and any other environmental planning instrument applying to the same land, the provisions of the other environmental planning instrument will prevail to the extent of the identified inconsistency.

#### A.9 Variation to standards

Council accepts that it is not possible to plan for all development scenarios and there will inevitably be situations where a development is not able to demonstrate compliance with one, or a number of standards in this plan.

Where the plan sets a standard in relation to an aspect of a development, and a Development Application cannot demonstrate compliance with that standard, Council may still grant approval subject to a statement being submitted to Council that:

- a. Clearly identifies the standard(s) that cannot be complied with, and
- b. Clearly identifies why the standard(s) cannot be complied with, and
- c. Clearly explains why non-compliance with the standard(s) is warranted by special circumstances or to achieve a superior standard.

The requirements of Council's Community Participation Plan will prevail in terms of the advertisement / notification / consultation requirements for applications involving variations to the DCP.

A copy of the Community Participation Plan can be downloaded from the QR Code above.

Not relevant. No variations are proposed.

## PART B – DESIGN GUIDELINES

### B1.1 Site selection and analysis guidelines

#### Standards

a. The following factors should be considered when determining whether a site is suitable for development:

- i. Physical constraints (e.g. flooding, bushfire, landslip, heritage, environmentally sensitive land).
- ii. Topography and drainage.
- iii. Adjoining land-uses, particularly important for intensive agriculture and industrial type uses which require separation from sensitive land-uses such as dwellings and schools.
- iv. The standard of access available for the intended development and its estimated traffic generation.

- v. *The availability of electricity supply and the capacity of the electricity grid (single or 3 phase, transformer size and capacity) to meet the intended development / use.*
- vi. *The availability of reticulated water supply and the capacity of water supply (size of mains, location of hydrants, pressure and flow) to meet the requirements of any development for potable water supply and firefighting purposes.*
- vii. *The availability of reticulated sewerage and the capacity of the system to meet the requirements of any development, including sewer main size, depth and location of manholes.*
- viii. *Restrictions on use of land (e.g. zoning, easements and other restrictions on the Land Title).*
- ix. *Lot configuration to accommodate the intended development in compliance with building setback rules and the like.*
- x. *Solar efficiency, particularly for land-uses requiring submission of a BASIX Certificate.*

The subject site is partly affected by the "flood planning level" which will be resolved by ensuring the minimum finished floor level is constructed. The subject site is not affected by bushfire, landslips, heritage, environmentally sensitive land or other similar physical constraint. The site is connected to reticulated sewer, water and stormwater drainage services.

There are no restrictions on the use of the land.

#### PART F – COMMERCIAL DEVELOPMENT

##### F1 Commercial Development

Part F1 applies generally to any development that is permissible with consent on land zoned:

1. B1 Neighbourhood Centre
  2. B2 Local Centre
  3. B3 Commercial Core
  4. B5 Business Development
  5. RU5 Village
- under Leeton Local Environmental Plan 2014.

This part does not apply as it only applies to Commercial Zones under the LEP.

#### PART J – PARKING + ACCESS

##### J1 Car Parking Code

###### J1.1 Application of Section

*Section J.1 applies to:*

- a. *New floor space or buildings.*
- b. *Alterations or additions to any existing building that requires development consent, whether or not such additions or alterations involve a change in building use.*
- c. *A change of use for which development consent is required, and that would require the provision of a greater number of on-site parking spaces than the previous use.*

*Off street parking provided to existing developments shall be retained. Additional parking spaces required for any new development, redevelopment or change of use shall be provided in accordance with the provisions of this part of the Plan. Certain types of development may qualify for car parking exemptions.*

*A development comprising a combination of two or more uses, such as combined motor sales and repairs, will be assessed as if the two uses exist independently.*

More detailed examination of how car parking rates apply to development is contained in Section J.1.5.

Not relevant. The proposal is for a new building.

### J1.2 Objectives

The objectives for parking are to:

- a. Ensure that adequate provision is made for off street parking consistent with the parking demand generated by the development.
- b. Provide convenient and adequate parking for staff, clients, visitors and servicing groups.
- c. To provide parking areas which promote ease of access as well as suitable internal circulation patterns.
- d. Ensure quality of parking areas in terms of safety, amenity and integration with surrounding areas.
- e. Ensure the adequate provision of suitably located parking for disabled persons.
- f. Provide landscaping and quality materials in the construction of parking areas to improve the amenity of those parking areas.
- g. Provide parking areas which promote ease of access as well as suitable internal circulation patterns.
- h. Ensure that all traffic generating developments are in accordance with the Roads and Traffic Authority's "Guide to Traffic Generating Developments" and relevant Australian Standards.
- i. Ensure that each development proposal is assessed consistently and equitably with respect to parking.

The proposed development complies with the objectives of Part J of the DCP.

### J1.5 Off street parking calculations

#### Standards

- a. Car parking will generally be required to be provided on the site of the development at rates in accordance with Tables 1 to 7.
- b. Despite control a), Council may be prepared to consider the provision of other appropriately zoned land for parking purposes, provided the alternate location is convenient to the subject development, safe to both pedestrians and motorists using and travelling on part of the facility and will satisfy the requirement.
- c. Off-street car parking should be provided for both customers and staff of the subject development and not exclusively for private purposes. Free and uninterrupted access to car parking areas should be maintained at all times during the hours of operation of the development.

Note: In the case of a number of different land uses comprising the development, the parking requirements for each separate use shall be calculated and then added together to provide the total parking requirement.

Variation to this requirement will only be considered by Council where the applicant can demonstrate that the peak demand for each land use component of the development is staggered or that development as whole generates less parking than separable parts.

The proposed number of parking spaces complies. See C30 earlier in this report.

### J3 Parking + Access Non Residential Uses

#### J3.1 Parking area locations

The following controls apply to new developments requiring the construction of new off-street car parking areas:

- a. Parking locations should be accessible to principal staff and/or customer entrances.
- b. Parking locations should enable adequate connections to existing and proposed road and pedestrian network.
- c. Parking locations should avoid areas that are constrained by slope and drainage.
- d. Parking locations should not result in adverse visual and acoustic amenity impacts for adjoining sites, particularly those which are used for residential purposes.

The proposed car parking complies, refer to the Acoustic Report in regard to noise generation.

### J3.2 Parking area design

- a. The layout and dimensions of car parking areas shall be provided in accordance with the relevant Australian Standard.
- b. All parking areas should incorporate a rational circulation pattern. Dead-end parking aisles will not be permitted except in small parking areas or areas reserved for a specific low turnover (eg staff parking areas).
- c. No account will be taken of spaces which do not have direct access to a driveway or which are double banked or obstructed in any way when assessing the car parking spaces provided.
- d. Parking areas should be suitably marked by lines or other approved means to indicate the layout and circulation pattern of traffic.
- e. Where necessary, adequate space shall be made for the manoeuvring of rigid and articulated heavy vehicles.
- f. Car park design incorporates appropriate lighting where it is anticipated that the area will receive night-time use by customers or staff.

The proposed car parking complies with the above controls.

### J3.3 Site access design

- a. Site access should be located:
  - i. No closer than 1.5 metres from the boundary of the site and no closer than 6 metres to a corner boundary.
  - ii. Not within 12 metres on the approaches to a "stop" or "give way" sign.
  - iii. So that any vehicles entering or leaving the site can be readily seen by the driver of an approaching vehicle in the street.
  - iv. Clear of obstructions, which may prevent drivers having a timely view of pedestrians.
  - v. In locations that are Visible and accessible from the road frontage.
  - vi. Where it will cause least interference with vehicle and pedestrian movement on public roads.
  - vii. In locations that do not provided direct connection to an existing proposed high volume and / or high speed roads, unless alternative access locations are not possible and appropriate design standards can be achieved.
  - viii. With sufficient proximity away from traffic signals, intersection.
  - ix. In areas which do not require the removal of street trees or other significant roadside vegetation.
- b. Site accesses should be designed and constructed:
  - i. In accordance with the Leeton Shire Council Engineering Guidelines (latest version).
  - ii. To suit design traffic loads.
  - iii. With signposting (including the use of "in" or "entrance" and "out" or "exit" signs,) where appropriate.

- iv. At right angles to the centreline of any road where the access crosses a footpath or footway.
  - v. To allow vehicles to enter and leave the site in a forwards facing direction.
  - vi. With a turning radius that is located wholly within the property boundary where semicircle access or "in-out" access arrangements are proposed.
  - vii. To avoid roadside stormwater encroaching onto private property.
  - viii. With sufficient standing area to eliminate the potential for on-street queuing of vehicles entering parking and loading areas.
- c. Entry and exit driveway widths are in accordance with:
- i. Leeton Shire Council Engineering Guidelines (latest version), and
  - ii. Relevant standards identified in Section J1.3.

The proposed car parking complies with the above controls.

#### J3.4 Disabled parking requirements

Both Council and developers have a responsibility to provide readily accessible parking for disabled persons in accordance with the Disability Discrimination Act.

The following controls apply:

- a. Parking for disabled persons are to be provided and signposted in accordance with the requirements of Australian / New Zealand Standard 2890.6:2009 Parking Facilities – Off Street Parking for People with Disabilities.
- b. Disabled parking spaces is to be provided at the rate of 1 space for parking areas comprising up to 20 spaces and thereafter at a rate of 2% of designated spaces.
- c. Car parks comprising 20 spaces or more are to be provided with tactile surfaces to assist vision impaired persons to access the premises in accordance with the requirements of Australian / New Zealand Standard 1428.4:2009 Design for Access and Mobility Part 4: Tactile Indicators.
- d. A continuous accessible path of travel must be provided between designated car parking spaces for people with a disability and lift, lobby or access points servicing the development, and this access should not have a gradient that is steeper than 1:14.

The proposed car parking complies with the above controls.

#### J3.5 Internal road design

This Section applies to all types of non-residential developments requiring the provision of off-street car parking:

- a. All internal roads and driveways shall be designed for low speed environments. Generally, vehicular speeds should range between 10-30 km/h, depending on the expected amount of pedestrian use.
- b. For internal roads between the driveway and the parking area, the recommended minimum carriageway width depends on the number of parking spaces and service bays. These minimum widths are provided in Table 9.
- c. Despite control (b), complex developments (particularly where shared use of roads by cars and service vehicles is anticipated) the design of internal roads is to be determined from a study of the site traffic generation and vehicle characteristics.

The proposed car parking complies with the above controls.

#### J3.6 Loading/unloading facilities

- a. Where there are no adequate public loading and unloading facilities in close proximity to a commercial, retail or industrial development, adequate provision is to be made on-site for the loading, unloading and manoeuvring of delivery vehicles.
- b. The number and dimensions of a loading bay required in any particular case will be assessed by Council having regard to the nature and scale of the proposed

development, the estimated frequency of deliveries and the type of delivery vehicle likely to be involved. Details regarding the estimated size and frequency of goods delivery vehicles visiting the premises should be submitted with the development application.

c. The loading/unloading areas should be designed to ensure that vehicles stand entirely within the site during loading and unloading operations.

d. On-site loading/unloading bays should be designed to ensure that vehicles can manoeuvre into and out of all loading/unloading areas without conflicting with the movement of traffic on site or in the adjacent streets.

e. In general the turning paths and general manoeuvring requirements for trucks and semitrailers shall be designed with reference to the RTA Guide to Traffic Generating Developments and the Australian Standard AS 2890.2 – Off-Street Parking Part 2: Commercial Vehicles Facilities. All internal roads and driveways shall be designed for low speed environments. An overview of the design requirements for service vehicles is included in Table 10.

Internal assessment has not raised any issues in regard to any loading and unloading associated with the development.

### J3.7 Signage

a. Parking areas should be well sign posted to indicate the availability of off-street parking, with exit and entry points clearly visible from both the street and the site.

b. Pavement arrows should clearly indicate the direction of traffic circulation. Parking areas shall be clearly delineated as well as spaces for specific uses (eg disabled, staff, visitors).

c. Where car parking areas are not visible from the entrance to the development, directional sign posting will be required.

d. Parking areas that are subject to frequent night time use by the public should utilise reflective materials for signs and line marking.

The proposal car parking complies with the above controls.

### J3.8 Pedestrian Travel

a. Pedestrian footpaths should be designed to optimise access to and within the development.

b. Footpath gradients should be minimised taking into account the possible shopping trolley, pram and gopher traffic and the need to maximise ease of use.

c. Safety lighting should be provided within the car park to ensure that pedestrian pathways have observable paths of travel.

d. Provision of parking and access aisles should not compromise the equity and amenity of pedestrian access. Pathways should be wide enough to accommodate disabled access.

The proposed car parking complies with the above controls.

### J3.9 Safety and security

a. Development proposals involving large car parking areas, or night-time parking areas will be assessed in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

b. The use of lighting should be considered where night use of parking areas is involved and where existing street lighting is inadequate.

c. Where parking areas utilised at night are located within residential areas, consideration should be given to the positioning of lighting and location of driveways to minimise head light glare and traffic noise. In such cases fencing and/or landscaping may be necessary to avoid loss of amenity to residential areas.

The proposed car parking complies with the above controls.

#### J3.10 Landscaping

- a. *Parking areas should be landscaped to provide shade, improve the visual amenity of large all weather surfaces and to provide a buffer from neighbouring areas.*
- b. *Landscaping should be provided to enhance user amenity through sun control.*
- c. *Existing trees on site should be retained where possible. Care should be taken in the selection of new plant species not to block signs and to allow ingress and egress points to be clearly visible.*
- d. *Details of species selection of shade trees, species condition, size of beds, under storey and ground cover planting, irrigation provision should be provided with the landscape plan submitted to Council for approval.*
- e. *Landscaping provision for sun control (shading) should be provided at the rate of 1 shade tree for every 6 car parking spaces. Planting of shade trees within parking areas should be protected from damage from vehicles (eg tree guards/wheel stops).*

The proposed car parking complies with the above controls.

#### J3.11 Bicycle parking

*In most situations bicycle parking facilities will be provided by Council on public land chosen for its convenience, security and safety.*

*Priority areas for bicycle parking facilities are the Leeton CDB, Leeton Pool, Leeton Library and some sporting facilities. Institutions such as TAFE and schools are also significant bicycle destinations.*

*There will be some high employment generating developments that will need to provide bicycle parking facilities. The level of parking provision for these developments will be determined using the following:*

- a. *Developments generating less than 20 car parking spaces - N/A.*
- b. *Developments generating more than 20 car parking spaces - 1 bicycle parking bay per 10 car parking spaces.*
- c. *Where bicycle parking is required, safe and convenient locations should be chosen with facilities being designed in accordance with relevant Australian Standards.*
- d. *The security and protection of bicycles is critical in parking design. Bicycle parking facilities should allow cyclists to secure the frame and two wheels of a bicycle to a fixed, secure stand, preferably with the cyclist's own lock and chain.*

The proposed car parking complies with the above controls.

#### J3.12 Car park construction

- a. *Car parks are constructed generally in accordance with the Leeton Shire Council Engineering Guidelines (latest version).*
- b. *In addition to control a), the following general constructions apply to new car parking constructions:*
  - i. *All concrete / paved / impervious surfaces are to be properly drained to the public drainage system or another legal point of discharge.*
  - ii. *All trafficable surfaces should be bound with a suitable kerb to assist in stormwater management and prevent the movement of vehicles on non-trafficable areas.*
  - iii. *Parking areas are to be barricaded from non traffic areas by kerbs, barriers or landscaping.*
  - iv. *Parking spaces are to be defined by painted lines or permanent means where the approved car parking surface is not conducive to painting.*

The proposed car parking complies with the above controls.

#### J3.13 Surface materials

a. All new car parking areas and their associated site accesses, vehicle manoeuvring areas and loading / unloading areas must be constructed with a surface finish in accordance with Table 11 below.

The proposed car parking complies with the above controls.

## PART K – FLOOD RISK MANAGEMENT

### K1.1 Introductory information

#### *Objectives for flood risk management*

The objectives for flood risk management are to:

- a. Minimise risk to life and damage to property by controlling development on flood prone land.
- b. Ensure the impacts of the full range of flood sizes up to and including the PMF are considered when assessing development on flood prone land.
- c. Ensure that development does not have a significant impact on flood behaviour, peoples safety, surrounding properties and structures, and the natural environment.
- d. Ensure that the effects of climate change are considered when assessing development on flood prone land.
- e. Ensure that development on the floodplain is consistent with the NSW Flood Prone Land Policy and NSW Floodplain Development Manual.
- f. Ensure that developers and the community are conscious of the potential flood hazard and consequent risk associated with the use and development of land within the floodplain.
- g. Ensure that all land uses and essential services are appropriately sited and designed in recognition of all potential floods.
- h. Ensure that development on flood prone land does not place an unacceptable financial burden on landowners or the community.
- i. Ensure the type, scale and location of development on a site is responsive to the nature and risk of flood hazard present.

The proposed development is consistent with Part K of DCP. The site is partly affected by the "Flood Planning Level" which will be resolved by ensuring a minimum finished floor level is constructed.

### K1.7 Flood related development controls

#### *General Controls*

The following controls apply generally to all types of development that is permissible within the flood planning area:

- a. Development is to ensure free draining of stormwater runoff and ensure drainage connectivity to a downstream drainage channel.
- b. Development is to ensure no adverse impacts external to the development site including impacts to the safety, value or use (current and potential) of any land in the vicinity.
- c. Where new development involves imported fill and has the potential to reduce flood storage, then appropriate flood modelling must be submitted with the Development Application to adequately demonstrate that there will be no worsening of existing flood conditions for a range of design events with consideration for cumulative impact.
- d. Where new development requires the construction of a driveway within the Flood Planning Area, these are constructed at existing natural ground level (i.e. no filling). Where this is not possible, adequate cross drainage is to be provided and it is to be demonstrated that the proposed works will not cause adverse flood impacts to surrounding properties.



e. Development does not impede the flow of floodwaters/stormwater runoff causing worsening of flood depths or levels on neighbouring properties. This includes any significant flow obstructions within the development.

f. Development does not increase the flood level or flow of stormwater runoff to surrounding properties.

#### *Commercial and Industrial Development*

m. Floor levels of all habitable rooms or rooms with connection to sewer infrastructure should not be less than the Flood Planning Level (which means the level of a 1:100 ARI flood even plus a 0.3m freeboard).

n. Upon completion and prior to the occupation (where relevant) a certificate by a registered surveyor should be submitted to Council showing that the finished ground and floor levels conform to approved to approved design levels.

o. New development should demonstrate within acceptable trafficability limits that the development will not be isolated in the event of a major flood (1% AEP flood).

p. Openings in structures such as fences or the like should be provided below the Flood Planning Level to allow free flow of stormwater.

q. No excavated underground car parking is permitted on land at or below the Flood Planning Level.

The proposed development complies with the above controls. The site is partly affected by the "Flood Planning Level" which will be resolved by ensuring a minimum finished floor level is constructed.

#### **Section 4.15(1)(a)(iiia) – Planning Agreements**

There is no draft or current planning agreement applicable to this application under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

#### **Section 4.15(1)(a)(iv) – any matters prescribed by the regulations**

There are no matters prescribed by the regulations.

#### **Section 4.15(1)(b) – likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

##### Context and setting

The proposed development is for a centre based child care facility. The contemporary design of the facility is appropriate within the setting and consistent with the outcomes sought for this site.

##### Streetscape

The new child care facility will alter the existing streetscape. The site currently contains a single shed which will be retained. The proposal will improve the overall amenity of the site and surrounding locality.

##### Access, transport and traffic

Brobenah Road provides the only form of vehicle access to the site. The proposal includes 29 car parking spaces which satisfies parking requirements. Pedestrian access is available via Brobenah Road via the existing footpath.

##### Noise and vibration

The construction of the child care facility may result in some short-term noise disturbance to neighbouring residents. The facility may result in some long-term noise concerns, an acoustic assessment was carried out and recommends that acoustic

fencing be constructed to minimise any noise that may result from the proposed development.

#### Services

The subject lot is adequately serviced for the proposal.

#### Heritage

The subject site is not within the heritage conservation area and there are no listed heritage items within proximity of the site.

#### Flora and fauna

The subject site has existing vegetation comprising trees and shrubs, the vegetation will be removed for the construction of the child care facility. The proposal includes low border planting and ground covers and turfed areas.

#### Natural Hazards

The development has been considered against the relevant flood provisions of the LLEP and DCP. The site is partly affected by the "Flood Planning Level" which will be resolved by ensuring a minimum finished floor level is constructed.

The development has been considered against the relevant bushfire provisions of the LLEP 2014 and DCP. A risk assessment is not required as the development is not mapped as being Bushfire Prone Land.

#### Man-Made Hazards

The site is not subject to any known man-made hazards.

#### Socio-Economic Impact in the Locality

The proposed development will have a positive economic impact for the local and wider community including the employment of persons during the construction period and also once complete, in the operation of the child care facility. The facility will employ 18 full-time equivalent staff. The facility will also provide additional child care for the community, which will have a positive economic impact.

#### *The principals of Ecologically Sustainable Development:*

*The following are principles of ecological sustainability:*

*1 The precautionary principle, public and private decisions should be guided by:*

*(a) Careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

*(b) An assessment of the risk-weighted consequences of various options.*

*The principle requires decision-making to give the environment the benefit of the doubt.*

*2 intergenerational equity*

*The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).*

*3 Conservation of biological diversity and ecological integrity*

*Conservation of biological diversity and ecological integrity should be a fundamental consideration.*

*4 Improved valuation, pricing and incentive mechanisms*

*Environmental factors should be included in the valuation of assets and services:*

*(a) Polluter pays (that is, those who generate pollution and waste should bear the cost of contaminate, avoidance or abatement), and*

(b) The users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of waste, and

(c) Environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The proposed development will not result in any anticipated irreversible environmental damage.

#### **Section 4.15(c) – The Suitability of the site for the development**

The site is suitable for the proposal as it is compatible with the uses in the immediate and surrounding locality. It is consistent with the objectives of the zone and there are no perceived constraints, adverse impacts or hazardous land uses nearby to prevent or limit the proposal.

#### **Section 4.15(d) – any submissions made in accordance with the Act or the regulation**

##### Referrals

The application was referred to relevant internal referral groups. Recommended conditions of consent have been included.

##### Notification

The application was placed on public notification for a period of 28 days, ending 31 July 2023 during which time immediate and surrounding neighbours were notified of the proposed development. There were two (2) submissions received. Issues raised in the two submissions are summarised below:

1. Various operational matters including who will run the childcare facility. *Response: The operational questions are not planning related. If consent is granted by Council, it will be subject to conditions of consent which will ensure operation of the the facility has minimum environmental impact.*
2. Parking and traffic (including pedestrian traffic). *Response: The childcare facility complies with Council's Development Control Plan car parking requirements and no adverse traffic impacts are likely to result given the size and scale of the proposed development.*
3. Future land values and local Council rates. *Response: This is not a relevant planning head of consideration.*
4. Acoustic fencing height. *Response: Acoustic fencing will be provided to all boundaries as detailed in this report.*
5. Sewerage system. *Response: The subject site is fully serviced including the provision of sewer infrastructure. No adverse impacts are anticipated.*
6. Rezoning. *Response: No rezoning of the subject land is required.*
7. Noise impact on Leeton Masonic Village. *Response: If consent is granted by Council, conditions are recommended which aim to reduce any adverse impact on adjoining neighbours, including residents of the Leeton Masonic Village.*
8. Landscaping appropriateness. *Response: The concerns raised will be monitored as landscaping matures. No adverse impacts are anticipated.*

##### Advertising

The application was advertised in Council's Column of the Irrigator Newspaper, on Council's Website and Council's Facebook Page for a period of 28 days, ending 31 July 2023. There were two (2) submissions received.

#### **Section 4.15(e) – the public interest**

The proposal is considered to be in the public interest, the proposal will not compromise the effective and ongoing operation and function of Brobenah Road or detrimentally impact traffic safety or road congestion. Proposed onsite car parking is adequate.

The proposal complies with ecological sustainable development (ESD) principles through compliance with the National Construction Code.

The proposal will provide 18 new full-time equivalent employment opportunities and temporary employment opportunities will be provided during the construction period. The building and construction work is estimated at approximately 1.6 million dollars.

The proposal will also provide additional child care places for the town of Leeton.

### **Other Legislative Requirements**

#### **Section 1.7 of the EPA Act 1979 and Part 7 of the Biodiversity Conservation Act 2016 (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)**

In accordance with the above listed legislation there are a number of tests to determine whether the proposed development results in the need of offsets.

Firstly, the test to determine whether proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats (7.3). There is no vegetation being removed and the development is not anticipated to result in any adverse impacts upon ecological communities or habitats of threatened species.

Secondly, whether the proposed removal of native vegetation exceeds the biodiversity offsets threshold (7.4). There is no vegetation proposed to be removed and therefore the offsets scheme does not apply.

Thirdly, whether the development is within a declared area of outstanding biodiversity value. The published biodiversity values map does not include any declared areas at the subject site.

Based on the above assessment the application does not fall within the biodiversity offset scheme.

Relevant matters under the Biodiversity Conservation Act 2016 have been considered.

Therefore, no further consideration of these matters is required.

### **Council Policies**

None.

#### **Development Contributions – Section 7.12 Environmental Planning and Assessment Act 1979**

The application meets the requirements of the Leeton Section 94A Fixed Levy Plan and the following contributions are owing:

Total Development Cost: \$1,600,000  
\$1,600,000 x 1% = \$16,000

A condition will be placed on the consent in accordance with the Plan, should the development be approved.

**Other Approvals**

None.

**Conclusion**

The development is considered to be satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 and Councils Policies.

**RECOMMENDATION**

It is recommended that application number DA 69/2023 for construction of centre-based child care facility be approved, subject to the following conditions:-

**General Conditions**

**Approved Plans**

1. Approval is granted for construction of a centre-based child care facility for 79 children to be undertaken generally in accordance with the stamped approved plans, detailed as follows, Statement of Environmental Effects and other approved documentation except where modified in red or by any of the following conditions:

Title/Plan no:	Ref no:	Sheet no:	Revisions:	Drawn by:	Dated:
Statement of Environmental Effects	Lot 1 DP 871761	1-7	1	Steven Murray Architect	6/6/2023
Site Plan, Elevations, Floor Plan, Indicative Views	DA-01	1	1	Steven Murray Architect	6/23
Noise Impact Assessment	R220397R1	1-33	3	Rodney Stevens Acoustics	5/6/2023
Geotechnical Investigation & Pavement Design	E22-022	1-32	1	Aitken Rowe Testing Laboratories	22/6/2023

**{Reason: To ensure that the development is undertaken in accordance with that assessed}**

**Essential Energy**

2. A distance of 1.8m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required.

**{Reason: To ensure that there is no safety risk. FROM LOW VOLTAGE OVERHEAD SERVICE CABLE TO NEIGHBOURS PROPERTY.}**

3. All works are to comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety



This approval does not ensure total compliance with the Disability Discrimination Act 1992. Applicants should investigate their potential for liability under the Act.

**{Reason: Compliance with 'Section D: Access and Egress & Section F; Health & Amenity of the Building Code of Australia and to ensure the applicant is made aware that total compliance with the Disability Discrimination Act 1992 may require further works outside of the scope of this development.}**

#### **Prior to the issue of a Construction Certificate**

11. No activity is to be carried out on site until the Construction Certificate has been issued, other than:

- a. Site investigation for the preparation of the construction, and/or
- b. Implementation of environmental protection measures, such as erosion control etc that are required by this consent.

**{Reason: To ensure the construction certificate is issued prior to the commencement of works.}**

#### **Council as Principal Certifying Authority**

12. Should Council be appointed as the Principal Certifying Authority, an application for Construction Certificate shall be submitted through the NSW Planning Portal and approved prior to the commencement of any building work, with appropriate fees being paid.

**{Reason: To ensure the applicant has submitted the appropriate documentation prior to the commencement of works.}**

#### **Structural Engineers Design**

13. A statement from a practising Structural Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

**{Reason: To ensure the structure is certified by an appropriately qualified structural engineer and adequate for the site's soil conditions and imposed loadings.}**

14. Copies of a practising Structural Engineer's plan of the reinforced concrete footings and slab and the structural steel framework shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate.

**{Reason: To ensure the structure is certified by an appropriately qualified structural engineer and adequate for the site's soil conditions and imposed loadings.}**

#### **Fire Safety Measures**

15. Prior to the issue of a Construction Certificate, the applicant shall submit a Fire Safety Services Plan to the Certifying Authority, issued by an appropriately qualified person identifying the required fire safety measures for the proposed building in accordance with its NCC classification.

**{Reason: Compliance with the NCC Vol 1, section E - Services & Equipment.}**

#### **Prior to the commencement of works**

##### **Public Access on Site**

16. Public access to the construction site is to be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures shall be in accordance with SafeWork NSW publication titled, 'Site Security and Public Access onto Housing Construction Sites' and installed prior to the commencement of any demolition, excavation or building works and be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

**{Reason: To comply with the requirements set by SafeWork NSW.}**

#### **Site Signage**

17. A sign is required to be erected in a prominent position on any work site on which building or demolition work is being carried out. The sign shall indicate:

- a. The name, address and telephone number of the Principal Certifying Authority for the work; and
- b. The name of the Principal Contractor and a telephone number at which that person may be contacted outside of working hours; and
- c. That unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

**{Reason: Compliance with prescribed conditions made under Environmental Planning & Assessment Regulation 2000.}**

#### **Temporary Closet Facility**

18. Temporary closet accommodation being provided throughout the course of building operations by means of a chemical closet complying with the requirements of the Department of Environment and Climate Change or temporary connections to Council's sewer where available, such connections to be carried out by a licensed plumber and drainer.

**{Reason: To ensure all workers on site have access to toilet facilities.}**

#### **During works**

##### **Critical Stage Inspections**

19. The following Critical Stage Inspections are required to be carried out by the Principal Certifying Authority to enable the issue of an Occupation Certificate:

- a. after excavation for, and before placement of, the first footing,
- b. before covering stormwater drainage connections,
- c. after the building work is completed and before an occupation certificate is issued for the building (the final critical stage inspection).

48 hours prior notice for all of the above inspections (where applicable) shall be given.

**{Reason: Section 6.5 (1) (b) of the Environmental Planning & Assessment Act 1979, requires that critical stage inspections are carried out prior to the issue of an Occupation Certificate (OC).}**

#### **Building Code of Australia**

20. All building works shall be carried out in accordance with the National Construction Code.

**{Reason: Compliance with prescribed conditions made under Environmental Planning & Assessment Regulation 2000.}**



### **Approved Plans**

21. A copy of the stamped approved plans shall be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

**{Reason: To ensure the Principal Contractor has access to the approved plans.}**

### **Access for Disability**

22. A minimum of one car parking space shall be provided in the car park for use by people with disabilities. Access for people with disabilities shall be provided from the car parking space to the building. The car parking space shall comply with the provisions of AS2890.6.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

23. The following sanitary facilities shall be provided within the building in accordance with the provisions of AS1428.1 and be suitable for the needs of people with disabilities: -

- a. one unisex accessible sanitary facility.
- b. one unisex ambulant sanitary facility.

**{Reason: Compliance with 'Section F; Health & Amenity of the Building Code of Australia.}**

24. Access for people with disabilities shall be provided to and within the building by means of a continuous path of travel in accordance with the provisions of AS1428.1 from:-

- a. The main points of a pedestrian entry at the allotment boundary; and
- b. From another accessible building connected by a pedestrian link; and
- c. From any required accessible car parking space on the allotment
- d. Through the principal pedestrian entrance, and through not less than 50% of all pedestrian entrances including the principal pedestrian entrance.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

### **Egress from Building**

25. The required egress door shall be readily openable without a key from the side that faces a person seeking egress from the building, by a single hand downward action or pushing action on a single device which is located between 900 mm and 1,100 mm from the floor.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

26. The required egress door shall swing in the direction of egress from the building unless it is fitted with a device for holding it in the fully open position.

**{Reason: Compliance with 'Section D: Access and Egress of the Building Code of Australia.}**

### **Emergency Services**

### **Emergency Lighting**

27. Emergency lighting and exit signs shall be provided to the building in accordance with the provisions of Part E4 of the Building Code of Australia.

**{Reason: Compliance with 'Section E: Services and Equipment of the Building Code of Australia.}**

28. Fire safety within the premises must achieve an adequate level of fire safety in accordance with the Environmental Planning and Assessment Regulation 2021 and a report prepared by a suitably qualified person.

The fire safety report shall detail the measures considered appropriate to satisfy the relevant performance requirements of the Building Code of Australia, to protect persons using the building, and to facilitate their egress from the building in the event of fire and to restrict the spread of fire.

The fire safety works are to be included in the Construction Certificate and to be implemented prior to occupation of the new building or part.

**{Reason: To provide a higher level of fire safety throughout the existing portion of the building.}**

#### **Portable Fire Extinguishers**

29. The building requires portable fire extinguishers that shall be selected, located and distributed in accordance with AS2444. Additional extinguishers may be required to cover fire risks in relation to special hazard provisions of Clause E1.10 of the Building Code of Australia.

**{Reason: To ensure fire extinguishers are provided in accordance with Clause E1.6 of the Building Code of Australia and AS 2444.}**

#### **Final Fire Safety Certificate**

30. Prior to occupation of the building, a Fire Safety Certificate issued by an appropriately qualified person shall be obtained for all the Essential Fire Safety Measures forming part of this consent. A copy of the Fire Safety Certificate shall be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

Each year thereafter, within 12 months, the owner of the building shall ensure these Essential Fire Safety Measures are inspected and Annual Fire Safety Statement issued. A copy shall again be submitted to the Commissioner of NSW Fire Brigade and council and prominently displayed in the building.

**{Reason: To ensure compliance with clause 83 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.}**

#### **Stormwater from Roofing**

31. All stormwater from roofing shall be conveyed to the street drainage system by means of pipes where practical, otherwise the stormwater shall be discharged at least 3 m clear of the building and maintained wholly within the boundaries of the allotment.

**{Reason: To provide proper disposal of the roof water to the street drainage system or alternatively to not permit the buildings footings to be undermined or to cause a nuisance to adjoining properties.}**

#### **Sewer Service & Stormwater drainage diagrams**

32. The contracted plumber as the "responsible person" must submit a Sewer Service Diagram (SSD) and stormwater drainage diagram to Leeton Shire Council as the delegated Water Authority, and the owner of the land or owner's agent for all plumbing and drainage work on a sanitary drainage system. The SSD is required to be submitted Prior to the issue of the Occupation Certificate. The plans must comply with the following requirements.
- a. A4 and A3 SSD Templates are available via the Fair-Trading website.
  - b. For all drawings larger than A3 only PDF & AutoCAD versions are accepted using the correct Fair Trading SSD legend and sign off template.
  - c. All drawn and required text information on the diagram must be complete and legible in a fine point black pen.
  - d. SSD must be drawn to a scale. Preferred scales are: 1:100; 1:200; 1:250; 1:500.
  - e. North point must be shown on the diagram.
  - f. Include only symbols and abbreviations as shown on the template legend.
  - g. All lettering and figures are to be drawn clear and legible.
  - h. Diagrams are only to show sanitary drainage up to the point of connection within the property boundary, property boundaries and building outlines.
  - i. Clearly show the sanitary drainage layout up to the point of connection within the property boundary indicating all internal points, external drainage, trade waste and any greywater treatment / diversion system up to the point of connection with the Network Utility Operator's sewer including any existing sanitary drainage remaining in use on the property
  - j. Street name and number (for street frontage) and/or Lot number and DP (deposited plan) number.
  - k. Suburb and municipality
  - l. if there is no connection to a Network Utility Operator's sewer please label as private sewer, community title, onsite septic tank or AWTS etc.

**{Reason: To comply with the requirement of NSW Fair Trading and Leeton Shire Council as the delegated Water Authority.}**

#### **Prior to the issue of an Occupation Certificate**

33. The person benefiting from this consent shall ensure following documentation has been submitted to the principle certifying authority prior to, or with any application for a final occupation certificate:
- a. Installation certification of smoke alarms
  - b. Pest Management Certification
  - c. Wall and roof truss bracing details from manufacturer.
  - d. Glazing certification
  - e. Plumbing, drainage and gas fitting certificate of compliance

**{Reason: Compliance with clause 38 (1) Environmental Planning & Assessment (Development Certification & Fire Safety) Regulation 2021 and to ensure adequate information supplied to allow assessment of application for a final occupation certificate.}**

34. Prior to the issue of an Occupation Certificate a Compliance report from an Acoustic Engineer is to be submitted to Council to certify compliance with the acoustic report and recommendations.

**{Reason: to ensure the proposed childcare complies with the recommendations in the acoustic report.}**

35. Application for any Occupation Certificate shall be submitted through the NSW Planning Portal and approved by the Principal Certifying Authority prior to occupation of the building.

**{Reason: Compliance with section 6.9 of the Environmental Planning & Assessment Act 1979.}**

36. The development proposal meets the requirements of the Leeton Shire Council Section 7.12 Developer Contributions Plan and the following contributions are owing:

Total Development Cost: \$1,600,000  
\$1,600,000 x 1% = \$16,000

The Developer contribution of \$16,000 is payable prior to the issue of an Occupation Certificate. The developer contribution will be adjusted on an annual basis, based on the Sydney All Groups Consumer Price Index.

**{Reason: Compliance with section 6.9 of the Environmental Planning & Assessment Act 1979.}**

**Engineering Conditions**

**GENERAL CONDITIONS**

37. A Concrete access driveway is to be constructed from the road carriageway to the property boundary for vehicle access to the lot in accordance with the requirements of Council. The existing access will become redundant, and a new access required to be constructed. The new access driveway onto Brobenah Road is to meet Council's standards:

- i. Have a width of six meters maximum with a cut-out of the kerb and gutter and be constructed in accordance with Council's Engineering Guidelines and Standard Drawing numbers RS-049 and RS-050 with Council's Notes.
- ii. The alignment of the access driveway across the verge shall be at right angles to the road.
- iii. The access driveway shall have satisfactory clearance to any power pole or telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the Developer's expense.
- iv. The access driveway shall be of adequate thickness to accommodate Light truck loading.
- v. The access driveway shall be provided with a non-slip finish.
- vi. The access driveway shall meet Australian Standard 2890.1 for vertical clearance.
- vii. The new reinforced concrete access driveway shall be constructed at the location shown on the drawings provided with the Development Application; and
- viii. The verge adjacent to either side of the access driveway shall be reinstated to surrounding conditions and finished flush with the new vehicle access driveways.
- ix. Prior to sealing or concreting the driveways, notice must be made to the council for inspection of completed gravel surface and formwork.

Advisory Note:

The installation of the vehicle access driveway is an approved structure in accordance with Section 138 of the Roads Act 1993. The ongoing maintenance and/or repair of the vehicle access driveway is the responsibility of the adjoining owner in accordance with Section 142 of the Roads Act 1993.

**{Reason: to provide for a suitable vehicular access to the development in accordance with Council's minimum standards and minimize impact on pedestrian access facilities.}**

38. All vehicular movement when entering and leaving the site shall be in a forward direction to ensure that the development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.

**{Reason: to provide a level of safety in relation to vehicle movements onto and off the site.}**

39. Off streetcar parking associated with the development is to be in accordance with AS2890.1-2004, AS 2890.2-2002 and AS 2890.5. Delineation and signage shall be provided to distinguish designated parking spaces.

Details of proposed access, design and construction are to be submitted to Council and approved prior to any commencement of works. The design should allow for future expansion to be possible.

**{Reason: to provide car parking spaces commensurate with the level of development.}**

40. All internal driveway and parking areas are to be paved, with segmental pavers, reinforced concrete, hot mix, bitumen seal, or other suitable material.

**{Reason: to provide a surface that will withstand the proposed traffic movements and to suppress dust levels so as not to cause a nuisance to adjoining properties.}**

41. The developer is to provide sufficient area on site for loading and unloading of delivery vehicles which will also allow for turning paths of service vehicles.

**{Reason: to provide a level of safety to operators by having these practices undertaken on site and not from the public road.}**

42. The Developer is responsible for all costs to extend, modify or all services for development.

**{Reason: the developer is responsible for all the extensions and connections of Council's services required for the development.}**

43. Stormwater runoff from the development is to drain so that it does not exceed the un-developed stormwater runoff onto adjoining or nearby properties.

The drainage design shall limit post development flows from the proposed development to less than or equal to predevelopment flows for all storms up to and including the 1% AEP storm event.

Stormwater is to be directed to the underground piped drainage system in Karri Road. A method of routing this stormwater must be determined. Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:

- i. All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage.
- ii. All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented.
- iii. Any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property is not permitted.
- iv. All overflow from rainwater tanks shall be collected and piped to the legal point of discharge.
- v. Only a single point of discharge from the development site is permitted to the legal point of stormwater discharge.

**{Reason: To ensure stormwater is controlled adequately.}**

44. All earthworks, filling, building, driveways, or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.

**{Reason: To prevent the proposed development having a detrimental effect on the development itself, or the developments existing on the adjoining lands.}**

45. Kerb and gutter are to be provided for the full frontage of the allotment to Brobenah Road. This is to be designed in accordance with relevant Standards and guidelines that allows accommodation of parallel parking along the frontage of the property. The profile of the kerb and gutter is to be in accordance with 'barrier type' kerb profile.

**{Reason: to provide for a minimum standard in relation to kerb and gutter and drainage installation for the development.}**

46. The area between the edge of bitumen and the kerb is to be gravelled with a minimum of 250mm compacted thickness of approved gravel and provided with a sealed bitumen surface consisting of a double application of binder and aggregate using 14mm and 7mm crushed stone respectively.

**{Reason: to provide for a minimum standard in relation to road widening works in requirement for the development.}**

47. Road widening (BAR Treatment) is required on the Eastern Side of Brobenah Road from Catalpa Road to the Site entrance to accommodate vehicles on the Sub-Arterial Road (Brobenah Road) to continue flow whilst vehicles are stopped awaiting entry or exit of vehicles from the developed site. This should be

incorporated into a traffic management plan to ensure all vehicles are safely catered for and the peak volume of turning vehicles movements are catered for adequately.

The development shall be constructed wholly within the confines of the property boundary. No portion of the proposed structure including any fencing and/or gates shall encroach onto or over adjoining properties or upon the road reserve area.

**{Reason: To ensure that the development does not encroach on any other adjacent land or reserve.}**

48. The developer is to contact Council's Liquid Trade Waste representatives to determine the requirements for the activities proposed to be conducted on the site.

Prior to the Commencement of Works, Council's written consent shall be provided to the Principal Certifying Authority regarding Liquid Trade Waste requirements.

There is to be no discharge of wastewater to Council's stormwater system.

**{Reason: to ensure that the proposed development can be appropriately serviced and to comply with Section 68 Part C (4) of the Local Government Act 1993 and in accordance with Council's Liquid Trade Waste Policy.}**

#### **PRIOR TO COMMENCEMENT OF WORKS**

49. A separate Council approval under Section 138 of the Roads Act 1993 is required prior to any works commencing within the road reserve, including the construction of access driveways for this development. An application must be submitted to Council and approved prior to issue of Construction Certificate for the building works.

The Section 138 application is to include:

Detailed construction plans, including a long section where appropriate.

ii. Details of the contractors engaged to undertake works within the road reserve. The contractor must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.

iii. A Traffic Control Plan (TCP) that has been prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3 2009 and the RMS current version of the "Traffic Control at Worksites" manual.

**{Reason: Compliance with Roads Act 1993 Section 138 for undertaking work on a public road reserve}**

#### **DURING WORKS**

50. Vehicles used in the construction of the development are to be managed such that they do not inhibit traffic flow within the road reserve. At no time are

construction or delivery vehicles to block the road or private accesses without prior approval of Council through a Section 138 Application under the Roads Act.

**{Reason: to ensure traffic effects are minimised.}**

51. The footpath and/or road reserve are not to be used for construction purposes or placing of building materials (without Council's prior consent) to ensure safe and unobstructed access for pedestrians. Where necessary, application may be made by contacting the Operations Division of Council.

**{Reason: To allow pedestrian traffic during construction.}**

52. Prior to the commencement of any works within the road reserve, approved Traffic Control Plans are to be implemented. Approved TCPs are to be maintained for the full duration of works.

**{Reason: to protect the public where interruptions to normal traffic flow for vehicles and pedestrians are expected.}**

53. Any damage to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of public infrastructure. Any damage to Council's infrastructure which is obvious before construction is to be immediately notified to Council to avoid later conflict.

**{Reason: To ensure that any damage to Council's property is at the full cost to the developer. Environmental Planning & Assessment Act 1979 Section 4.15 (6) (a)}**

**PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE**

54. Prior to the issue of an Occupation Certificate, a Certificate of Compliance under the Water Management Act 2000 is to be obtained from Council.

**Advisory Note**

**Certificate of Compliance – Water Management Act 2000**

The developer is to contact Council's Water and Wastewater Department to apply for the compliance certificate.

Prior to the issue of the Certificate of Compliance, developer charges for water and sewer must be paid to Council in accordance with Council's Revenue Policy 2023/2024. These charges are calculated based on the additional water and sewerage load that the proposed development generates. The headworks charges required to be paid for the subject development are as follows:

**Water: \$ 14,206.68**

**Sewer: \$ 25,872.00**

**TOTAL: \$ 40,078.68**

**{Reason: to adequately service the development and the developer is responsible for contributing a proportion of the cost of existing and future infrastructure that will benefit the development.}**



**ONGOING USE**

The sealing of vehicle access driveways is to be always maintained.

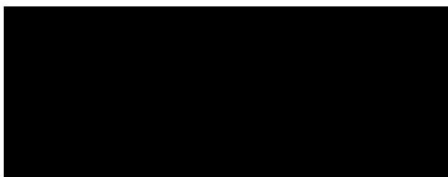
**{Reason: to ensure the access remains suitable and the Road Reserve is maintained safe with no obstructions.}**

Assessing Officer:

**I have not identified any conflicts of interest in this process.**

Ian Dencker B.E.S.T.

**Date:** 7/8/2023



31<sup>st</sup> July, 2023

General Manager  
Jackie Kruger.

The Town Planner  
Sarah Sharman.  
23-25 Chelmsford Place  
Leeton NSW 2705

Re: DA 69/2023 Childcare Centre

Dear Sarah

I am writing to reply to the notification of the DA application 69/2023 letter that we received from council. Being the [REDACTED] to the proposed DA at 98-100 Karri Road , we do have some level of objection and concerns to the proposed development as supplied to us and as per the one on public display.

We wish to ask some relevant questions about the development prior to any endorsement for the DA.

1. Do the developers, CSKY Services Pty Ltd, have any experience or history in building, designing and operating a Childcare Centre? I was unsuccessful in an expanded search on the internet of this company and its history. Whoever undertakes this, I would think they would be capable or have a history of successfully operating a Childcare Centre in our community. The last thing anyone in our community would want to see, is this facility being poorly managed or even closed in a few years' time given the input of council involvement and contribution to the project with ratepayers money. Is council contributing any funds to this development? If so how much.
2. Do The Trustee for CSKY Services P/L intend on operating the facility themselves or contracting it out or possibly developing it for sale or lease to some other company? What are their intentions?
3. Who owns the land that the Childcare Centre is to be built on? If its council land, how was the price agreed between the two parties, was it advertised for general sale? If not, why not? Given the councils current economic situation, if they own the land, surely, the sale of the land would be based on the highest possible MARKET PRICE attainable!

A valuation is based on prior sales of similar property in the area and could be substantially less!

4. I note that the facility has the capacity to have up to 79 children and 18 permanent employees. This is of concern to me, having that many children, carers or parents, staff and delivery vehicle's using the allocated car park area, compared to the number of parking spaces is not going to work. Why is this deemed ok? Can I suggest that a number of angled car parking spaces be made available along Brobenah Road much like what has been done further along Brobenah Road in front of the old Caravan Park. These could be located from the corner of Karri Road and Brobenah Road back towards the Childcare's entrance drive way and could even continue further along Brobenah Road south toward the shop and link up with the existing angled car park. Hence that would warrant putting in kerb and guttering as well. Aesthetically this would greatly improve the approach to entering Leeton. This could be part of the DA's application for the developer? Is this correct?
5. Looking at the area in the car park, how is a delivery truck or refuse truck at 10 to 15 meters long, going to turnaround in safety and exit in a forward direction even a smaller delivery truck will struggle. Shouldn't there be a dedicated IN and OUT driveway for deliveries? Even the council vehicles will need access to the sewer pump station located on the western side of the adjoining property (Alf Hermann Lodge), If this is where council intends to service this facility from?
6. Another concern is the traffic flow around, into and out of the Centre. According to the Traffic Impact Assessment undertaken for a previous development, there will be 82 vehicle trips per hour during AM peak and 72 vehicle trips per hour during the PM, that's about 490 vehicle trips per day. Has a traffic flow study been done to establish risk etc? Why are turning lanes not being put in place along Brobenah Road to allow for safe arrival and departure of vehicles at the Centre?? Further up Brobenah Road, towards the hospital intersection, we have experienced delays, near misses and traffic banked back up around the roundabout. This is the result of the traffic in and out of the existing Child Care Centre , a much smaller Center at that. Over the time that we have lived in the area we have seen a considerable increase in traffic as a result of housing and various industry developments, which may become a major safety issue for the area and its residents. I feel turning lanes are a must as part of the this DA application. Is there enough room to have parking and turning lanes allocated here??
7. I understand the establishment of this Childcare Centre is a huge bonus for not only the Leeton Community but also the local and surrounding homes. Being a growing area and further development along Brobenah Road leading North, I suspect the land values will increase. If this does happen, it will result in the land tax values also increasing, which in turn, will result in our Local Council Rates increasing (this does concern us greatly). Can council comment on this increasing and perhaps put an amount our rates could be.

increased by and over what term? If not, this should be addressed in the granting of this DA by Council and made available to the affected surrounding land owners. Is there some history of this happening in our shire from other Childcare Centre's being established or can this information be sourced from other similar areas where this has happened.

8. I noted on the plan also that the external fencing on the western boundary be made of suitable acoustic material, is it only on this boundary or is it on all boundaries? There is no mention of height. Other schools in Leeton seem to have a 2.1 meter high fence around them as a matter of security for the children and staff, so I would highly recommend the higher fence for the Childcare Centre be part of the DA.
9. Is there a sewerage system available for this development or does it need to be upgraded? If no sewerage is available, is there going to be and who will cover the costs? Will there be any form of vent pipe fitted to the sewer system? Will it exhaust a smell like it does in another areas of town?? Who will be paying for this?
10. Current zoning is RI General Residential. Is there a cost to re zone this land? Who is paying for this ? How much is this?

We would like to be able to sit down with yourself to discuss the answers that you may propose to our questions. Overall we understand that this development is a much needed requirement for the town, but answers given to us regarding our concerns will determine our support, or not, for this development.. I would also be interested to hear what other people responses to the DA are, confidentially of course. Also, we would not like our personal information disclosed to any party, however as mentioned we are happy to sit down and discuss this with you.

Kind Regards





**Submission for Development Application No DA69-2023**

**39- 45 BROBENAH ROAD, LEETON.....LOT1 DP 871761**

**General Manager, Jackie Kruger.**

I am the resident of [REDACTED] am submitting a letter **against** the proposed development of a Childcare Centre at the above address.

I am not against Childcare Centres, but feel along with close neighbours this is not the position to be building it, adjoining the Retirement Village, also between two Nursing homes being Alf Herman Lodge and Southern Cross Assumption Village. After viewing the proposed plan of the Childcare Centre I am unable to work out the distance of the building from my boundary fence and the closeness to my main bedroom., especially with the playground right next door . NOISE will be my main concern, also Unit 2, as I suffer with a sleep disorder and often rest during the daytime.

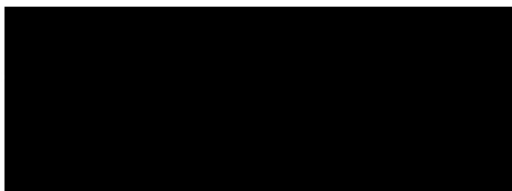
No footpaths are along Karri Road and schoolchildren, also elderly with Mobility Scooters very often frequent this road, making it dangerous with the increased traffic in that area. Plan shows that there will be Manchurian Pears and other 2m evergreens are also planned, which is stupid on a corner. Trees alongside my unit would be restricting sunshine to my garden and verandah which I am often enjoy sitting on.

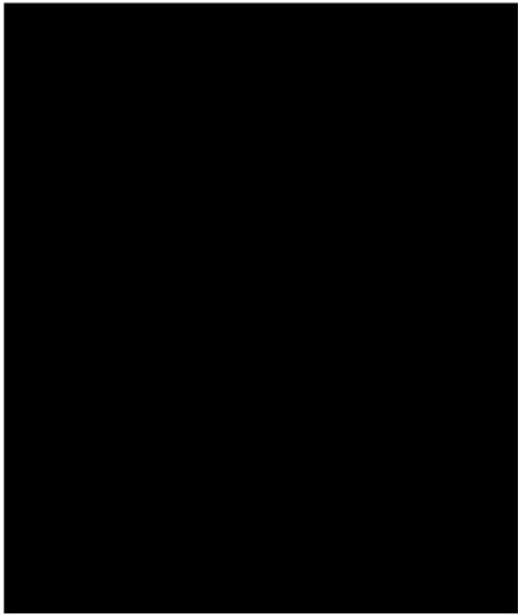
If this planning goes ahead, being so close to the proposed centre my future would be very unpleasant and at my stage in life I cannot afford to move somewhere else. Also another major concern is joining on to the sewerage line along the fence, near the Community Transport shed, it is not adequate for the [REDACTED] also Alf Herman Nursing Home, let alone joining into it, I often get smells from it.

Another concern is the Community Transport Building which is a major part of Leeton, especially the elderly, where will it go that is safe for the volunteer drivers which are a big assest to the community.

I along with the residents of [REDACTED] gree that it is not appropriate to build a Childcare centre at 39-45 Brobenah Road Leeton.

**I DO NOT WISH TO HAVE MY PERSONAL INFORMATION PUBLISHED WITH THIS SUBMISSION.**





**RECEIVED**  
DATE 31/7 BY *[Signature]*



REPORT R220397R1

Revision 3

**Noise Impact Assessment**  
**Proposed Child Care Centre**  
**39-45 Brobenah Road, Leeton**

PREPARED FOR:  
Riverina Outbuild  
2/6 Atlin Street,  
Griffith NSW 2680

5 June 2023

PO Box 522  
Wahroonga NSW 2076  
P 02 9943 5057  
F 02 9475 1019  
[mail@rodneystevensacoustics.com.au](mailto:mail@rodneystevensacoustics.com.au)

ABN 78 149 311 455  
[rodneystevensacoustics.com.au](http://rodneystevensacoustics.com.au)



# Noise Impact Assessment

## Proposed Child Care Centre

### 39-45 Brobenah Road, Leeton

#### PREPARED BY:

**Rodney Stevens Acoustics Pty Ltd**  
Telephone: 61 2 9943 5057 Facsimile 61 2 9475 1019  
Email: info@rodneystevensacoustics.com.au  
Web: www.rodneystevensacoustics.com.au

#### DISCLAIMER

Reports produced by Rodney Stevens Acoustics Pty Ltd are prepared for a particular Client's objective and are based on a specific scope, conditions and limitations, as agreed between Rodney Stevens Acoustics and the Client. Information and/or report(s) prepared by Rodney Stevens Acoustics may not be suitable for uses other than the original intended objective. No parties other than the Client should use any information and/or report(s) without first conferring with Rodney Stevens Acoustics.

The information and/or report(s) prepared by Rodney Stevens Acoustics should not be reproduced, presented or reviewed except in full. Before passing on to a third party any information and/or report(s) prepared by Rodney Stevens Acoustics, the Client is to fully inform the third party of the objective and scope and any limitations and conditions, including any other relevant information which applies to the material prepared by Rodney Stevens Acoustics. It is the responsibility of any third party to confirm whether information and/or report(s) prepared for others by Rodney Stevens Acoustics are suitable for their specific objectives.

#### DOCUMENT CONTROL

Reference	Status	Date	Prepared	Checked	Authorised
R220397R1R1	Revision 0	16 September 2022	Brian Mendieta	Rodney Stevens	Rodney Stevens
R220397R1R1	Revision 1	5 October 2022	Brian Mendieta	Rodney Stevens	Rodney Stevens
R220397R1R1	Revision 2	7 December 2022	Brian Mendieta	Rodney Stevens	Rodney Stevens
R220397R1R1	Revision 3	5 June 2023	Brian Mendieta	Desmond Raymond	Rodney Stevens





## TABLE OF CONTENTS

1	INTRODUCTION	5
2	PROPOSED DEVELOPMENT	5
2.1	Existing Site	5
2.2	Proposed Development	5
2.3	Enrolment Numbers	5
2.4	Outdoor Play Activities	5
2.5	Surrounding Receivers	5
3	BASELINE NOISE SURVEY	7
3.1	Unattended Noise Monitoring	7
3.2	Data Processing	7
3.2.1	Noise Intrusion ( <i>Road Noise Policy</i> )	7
3.2.2	Noise Emission ( <i>Noise Policy for Industry</i> )	8
4	NOISE GUIDELINES AND CRITERIA	8
4.1	Operational Noise From Child Care Centre	8
4.1.1	Outdoor Play Area	8
4.1.2	Other Noise Emissions	9
4.1.3	Summary of Noise Emission Criteria	9
4.1.4	Road Noise Intrusion to Outdoor Playground	9
4.1.5	Noise Intrusion to Indoor Areas	9
5	NOISE IMPACT ASSESSMENT	10
5.1	Noise Emissions from Outdoor Play	10
5.2	Noise Emissions from Indoor Activities	11
5.3	Carpark Emission	12
5.4	Mechanical Plant Noise Assessment	12
5.5	Road Traffic Noise Intrusion into Centre	12
5.5.1	Outdoor Play Area	12
5.5.2	Indoor Areas	13
6	RECOMMENDATIONS	14
6.1	Outdoor Play Areas	14
6.2	Indoor Play Areas	14
6.3	Car Park Noise Control Measures	14
6.4	Internal Acoustic Recommendation for the Cot Room	14
6.5	Acoustic Barrier Details	17
7	CONCLUSION	19
	APPENDIX A – ACOUSTIC TERMINOLOGY	20



APPENDIX B – LOGGER GRAPHS	24
APPENDIX C – CALIBRATION CERTIFICATE	32
Table 2-1 Sensitive Receivers	6
Table 3-1 Ambient Noise Levels Corresponding to Defined RNP Periods	7
Table 4-1 Summarised Noise Emission Criteria	9
Table 5-1 Effective Sound Power Levels ( $L_{Aeq, 15min}$ ) for Groups of 10 Children Playing	10
Table 5-2 Predicted Outdoor Play Activities Noise Emission	11
Table 5-3 Predicted Indoor Play Activities Noise Emission	11
Table 5-4 Calculated Carpark Noise Levels	12
Table 5-5 Predicted Road Traffic Noise Levels Into Outdoor Play Areas	13
Table 5-6 Predicted Road Traffic Noise Levels Into Indoor Areas	13
Table 6-1 Recommended wall and door construction	15
Figure 2-1 Aerial Map of the site, noise loggers (NL1 & NL2) and Surrounding Receivers	6
Figure 6-1 Solid Wall Detail – Full Height for wall with Rw 35 or greater	16
Figure 6-2 Solid Wall Detail – for wall with less than Rw 30	16
Figure 6-3 Proposed Child Care Centre Layout	18



## 1 INTRODUCTION

Rodney Stevens Acoustics Pty Ltd (RSA) has been engaged by Riverina Outbuild to prepare a Noise Impact Assessment Report for the proposed Child Care Centre to be located at 39-45 Brobenah Road, Leeton.

This report details the results of a noise survey and assesses noise from the proposed Child Care Centre on nearby receivers, as well as address other noise ingress and egress issues that may potentially arise.

Specific acoustic terminology is used in this report. An explanation of common acoustic terms is provided in Appendix A.

## 2 PROPOSED DEVELOPMENT

### 2.1 Existing Site

The development site is bounded by residential dwellings to the south and west side. The site is also bounded by local roads to the north (Karri Road) and to the east (Brobenah Road). Farther north from the site are additional residential dwellings. Across the road of Brobenah Road is the Southern Cross Care Assumption Villa Residential Aged Care Facility. The existing site is mostly vacant except for a site shed.

According to the Leeton Shire Council's Land Zoning Map, the site and the surrounding receivers are located within a General Residential (R1) area and east of Brobenah Road is a Low Density Residential Area (R2).

### 2.2 Proposed Development

The proposal is to construct a single storey childcare centre which consists of five separate indoor play centres and an outdoor play areas in the north-eastern area of the site. An outdoor car parking lot is situated on the south side of the site. The following hours of operation are proposed:

- Monday to Friday 7:00 am until 6:00 pm

### 2.3 Enrolment Numbers

The proposed Child Care Centre plans to cater for up to 79 children between the ages of 0 and 5 years of age. The number of children and their age groups are as follows:

- 0-2 years old - 24 Children
- 3-5 years old - 55 Children

### 2.4 Outdoor Play Activities

In RSA's experience with Child Care Centres, potential noise issues occur primarily when children are engaged in outdoor play activities, in terms of intrusive environmental noise to the play areas and play area noise to nearby sensitive receivers.

### 2.5 Surrounding Receivers

There are a number of sensitive receivers surrounding the proposed development, these receivers are potentially affected by noise generated by the proposed child care centre. The following table shows the nearest receivers.



Table 2-1 Sensitive Receivers

Receiver	Sensitive Receiver's Address
R1A	91-95 Karri Road, Leeton
R1B	91-95 Karri Road, Leeton
R2	47 Brobenah Road, Leeton
R3	1-13 Catalpa Road, Leeton
R4	84 Brobenah Road, Leeton
R5	37 Brobenah Road, Leeton

Figure 2-1 shows an aerial image of the site area, the surrounding receivers and locations of noise loggers.

Figure 2-1 Aerial Map of the site, noise loggers (NL1 & NL2) and Surrounding Receivers



Image Courtesy of Google Maps © 2021.



### 3 BASELINE NOISE SURVEY

#### 3.1 Unattended Noise Monitoring

In order to characterise the existing acoustical environment of the area unattended noise monitoring was conducted between the dates of Tuesday 14<sup>th</sup> June and Tuesday 21<sup>st</sup> of June 2022 at the logging locations shown in Figure 2-1.

Two noise loggers were set up at the project site. The first logger (NL1) was located on the frontyard of the site and monitored the road traffic noise from Brobenah Road. This NL1 logger also represents the background noise level of the frontyard of Receivers R2 to R5. The second logger which was located at the rear of the site, this logger provides the baseline background noise level of residential receiver backyard between R1A and R1B.

Logger location was selected with consideration to other noise sources which may influence readings, security issues for noise monitoring equipment and gaining permission for access from residents and landowners.

Instrumentation for the survey comprised of two RION NL-42 environmental noise loggers (serial numbers 810779 and 133010) fitted with microphone windshields. Calibration of the logger was checked prior to and following measurements. Drift in calibration did not exceed  $\pm 0.5$  dB(A). All equipment carried appropriate and current NATA (or manufacturer) calibration certificates. Noise data affected by significant weather conditions (i.e. heavy rain and strong winds) was removed from the noise analysis; this includes measurement taken on the 15<sup>th</sup> June 2022.

The logger determines  $L_{A1}$ ,  $L_{A10}$ ,  $L_{A90}$  and  $L_{Aeq}$  levels of the ambient noise.  $L_{A1}$ ,  $L_{A10}$ ,  $L_{A90}$  are the levels exceeded for 1%, 10% and 90% of the sample time respectively (see Glossary for definitions in Appendix A). Detailed results at the monitoring location are presented in graphical format in Appendix B. The graphs show measured values of  $L_{A1}$ ,  $L_{A10}$ ,  $L_{A90}$  and  $L_{Aeq}$  for each 15-minute monitoring period.

#### 3.2 Data Processing

##### 3.2.1 Noise Intrusion (*Road Noise Policy*)

To assess noise intrusion into the outdoor play areas and internal areas of the Child Care Centre, the data obtained from the logger location has been processed to establish representative ambient noise levels from Brobenah Road.

The time periods used for this assessment are as defined in the EPA's *Road Noise Policy* (RNP, 2011). Results are presented below in Table 3-1.

Table 3-1 Ambient Noise Levels Corresponding to Defined RNP Periods

Location	Period	External Noise Levels dB(A)
East side of the site	1 Hour	$L_{Aeq(1hour)}$ 59 dB



### 3.2.2 Noise Emission (Noise Policy for Industry)

In order to assess noise emission from the proposed Child Care Centre, the data obtained from the noise logger has been processed in accordance with the procedures contained in the NSW Environmental Protection Authority's (EPA) *Noise Policy for Industry* (NPfI, 2017) to establish representative noise levels that can be expected in the residential vicinity of the site. The monitored baseline noise levels are detailed in Table 3-2.

Table 3-2 Measured Baseline Noise Levels Corresponding to Defined NPfI Periods

Location	Measurement Descriptor	Measured Noise Level – dB(A) re 20 µPa		
		Daytime 7 am - 6 pm	Evening 6 pm – 10 pm	Night-time 10 pm – 7 am
Backyard of R1A and R1B	L <sub>Aeq</sub>	52	51	42
	RBL (Background)	38	33	26
Frontyard of R2 to R5	L <sub>Aeq</sub>	59	54	51
	RBL (Background)	38	33	27

L<sub>Aeq</sub> Equivalent continuous (energy average) A-weighted sound pressure level. It is defined as the steady sound level that contains the same amount of acoustic energy as the corresponding time-varying sound.

L<sub>A90</sub> Noise level present for 90% of time (background level). The average minimum background sound level (in the absence of the source under consideration).

## 4 NOISE GUIDELINES AND CRITERIA

### 4.1 Operational Noise From Child Care Centre

A guideline for the assessment of noise from child care centres has been prepared by the Association of Australian Acoustical Consultants (AAAC). The document, *AAAC Technical Guideline Child Care Centre Noise Assessment V3.0*, provides criteria for the assessment of noise intrusion into and noise emissions from Child Care Centres and also provides recommendations for treatment to minimise acoustical impacts upon neighbouring premises.

#### 4.1.1 Outdoor Play Area

Since the time in which children are involved in outdoor play can be limited, the potential impact associated with these noise emissions reduces. The AAAC considers a total limit of 4 hours outdoor play per day (typically 2 hour in the morning and 2 hour in the afternoon) reasonable to apply a criterion of L<sub>Aeq(15minute)</sub> noise level emitted from the outdoor play area not exceed the background noise level by more than 10 dB at the assessment location. However, if the proposed outdoor play time is more than 4 hours per day, the L<sub>Aeq(15minute)</sub> noise level emitted from the outdoor play area must not exceed the background noise level by more than 5 dB at the assessment location.

We have assumed that the proposed child care centre will operate more than 4 hours of outdoor play time per day, therefore, the noise criterion for noise emissions from outdoor activities to all surrounding residential receivers is day time background L<sub>A90</sub> + 5dB.



Where the measured ambient noise level of a particular area is below 40 dB(A), the AAAC provides a specific base criterion in Section 3.2.1 of the guidelines. A base criterion of a contributed  $L_{eq,15min}$  45 dB(A) for the assessment of outdoor play is recommended in locations where the background noise level is less than 40 dB(A). In this case the noise criteria for outdoor play area noise is 45 dB(A).

#### 4.1.2 Other Noise Emissions

Based on Section 3.2.2 of the AAAC guidelines, the cumulative  $L_{eq,15\text{ minute}}$  noise emission level resulting from the use and operation of the child care centre, with the exception of noise emission from outdoor play shall not exceed the background noise level by more than 5dB. This includes the noise emission resulting from:

- Indoor play
- Mechanical plant
- Drop off and pick up
- Other activities/operations (not including outdoor play).
- The noise criteria for nearby school will be the same as the noise criteria within Section 4.1.1.

#### 4.1.3 Summary of Noise Emission Criteria

Based on the AAAC guideline, the noise criteria for noise emission from the child care centre on surrounding receivers are presented in Table 4-1.

Table 4-1 Summarised Noise Emission Criteria

Receiver	Noise Type (Assessed Separately)	Noise Criterion
		Day Time $L_{Aeq}$ dB(A)
Residentials R1A to R5	Outdoor play	45
	Outdoor, Indoor play, mechanical, drop off and pick up and other activities and operations	43

#### 4.1.4 Road Noise Intrusion to Outdoor Playground

For the assessment of road traffic noise impact on the outdoor play areas, the AAAC *Technical Guideline Child Care Centre Noise Assessment V3.0* has been used to determine the appropriate noise level. In accordance with the AAAC guideline, the noise criterion for outdoor play areas is as follow:

- Outdoor play areas –  $L_{Aeq,(1hour)}$  55 dB(A) (external).

#### 4.1.5 Noise Intrusion to Indoor Areas

The assessment of road traffic noise impact on the outdoor play areas is assessed against the AAAC *Technical Guideline Child Care Centre Noise Assessment V3.0*. Based on these documents, the noise criteria for the indoor play areas are as follows:

- Indoor play areas –  $L_{Aeq,(1hour)}$  40 dB(A) (internal)
- Sleeping areas –  $L_{Aeq,(1hour)}$  35 dB(A) (internal)



## 5 NOISE IMPACT ASSESSMENT

### 5.1 Noise Emissions from Outdoor Play

Potential noise management issues occur primarily when children are engaged in outdoor play activities. The Association of Australian Acoustical Consultants (AAAC) technical guideline for Child Care Centre Noise Assessment V3.0 provides the following sound power levels ( $L_w$ ) for various age groups of children

Table 5-1 Effective Sound Power Levels ( $L_{Aeq, 15min}$ ) for Groups of 10 Children Playing

Noise Descriptor	Noise Level (dB) at Octave Band Centre Frequency (Hz)								Overall dB(A)
	63	125	250	500	1 k	2 k	4 k	8 k	
0 to 2 Years	54	60	66	72	74	71	67	64	78
2 to 3 Years	61	67	73	79	81	78	74	70	85
3 to 5 Years	64	70	75	81	83	80	76	72	87

If applicable, an adjustment to the above sound power levels of -6 dB could be applied in each age group for children involved in passive play.

Calculations have been made based on the spectra above assuming 52 children within the outdoor play area. The following assumptions have been made in the noise modelling of the Outdoor Play areas noise impacts on the neighbouring residences:

- Maximum of 52 children within the outdoor area. To assess the worst-case scenario, the age group outside at one time would consist of 40 children ( $L_w$  93dB(A)) between the ages of 3 & 6 and 12 children ( $L_w$  79dB(A)) between the ages 0 and 2 years old.
- The height of the residential receivers has been assumed to be 1.5 metres for residential buildings on their respective level;
- Source height in the outdoor play area, i.e. children height, have been taken to be 0.7 meter for children between 0 and 2 years and children between 3 and 5 years are 0.8 metre from the ground;
- Noise Barrier onsite, as per our noise control recommendation in Section 6.5, consists of the following:
  - 2.1m high barrier with an angled cantilever ontop (total 2.6m high) along the western outdoor playground boundary
  - 2.1m solid barrier along the remaining western boundary and southern boundary
  - 1.8m solid barrier on the along the western, northern and eastern boundary of the site.
- Resulting noise levels have been calculated to the most affected point on the boundary of the affected receivers.

The following figure shows the receiver locations in relation to the proposed Child Care Centre.

The predicted noise levels experienced by nearest residential receivers are presented in Table 5-2 below. Noise levels have been calculated at the most affected boundary heights. The noise levels presented below are representative of the worst case scenarios for receiver.





Table 5-2 Predicted Outdoor Play Activities Noise Emission

Receiver	Predicted Outdoor Play Activities Noise at Neighbouring Residents – dB(A)	Criteria	Compliance
R1A	32	45	Yes
R1B	46	45	Yes*
R2	43	45	Yes
R3	35	45	Yes
R4	37	45	Yes
R5	32	45	Yes

\* We note that an exceedance of 1 dB(A) is generally regarded as being acoustically insignificant.

Noise from the outdoor play activities at the surrounding receivers is predicted to comply with the relevant noise limits.

## 5.2 Noise Emissions from Indoor Activities

Calculations have been carried out to ascertain the noise breakout from indoor activities to the neighbouring premises. The configuration of the sliding doors and windows to be closed is shown in Figure 6-3 resulting noise levels at each noise receivers are presented in Table 5-3 below.

Table 5-3 Predicted Indoor Play Activities Noise Emission

Receiver	Predicted Indoor Play Activities Noise at Neighbouring Residents – dB(A)	Criteria	Compliance
R1A	42	43	Yes
R1B	26	43	Yes
R2	39	43	Yes
R3	41	43	Yes
R4	42	43	Yes
R5	42	43	Yes

Noise from the indoor play activities at the surrounding receivers is predicted to comply with the relevant noise limits.



### 5.3 Carpark Emission

The proposed car park is located on the north boundary and has a capacity of 20 parking spaces. Calculations of noise from the carpark activities have been based on typical noise generating events within a carpark such as, door slams, engine starts and cars driving away. RSA has assumed a scenario where 16 parent vehicles entering and leaving and four staff vehicles entering the car park all within a 15-minute assessment period.

The calculated noise levels from the activities carried out within the carpark are presented in the Table 5-4 below. It should be noted, the noise prediction also consider the noise control measures outlined in Section 6.3

Table 5-4 Calculated Carpark Noise Levels

Receiver	Predicted Carpark Activities Noise at Neighbouring Residents – dB(A)	Criteria	Compliance
R1A	39	43	Yes
R1B	20	43	Yes
R2	<20	43	Yes
R3	26	43	Yes
R4	34	43	Yes
R5	43	43	Yes

Car park noise at the surrounding receiver locations is predicted to comply with the relevant noise limits.

### 5.4 Mechanical Plant Noise Assessment

Mechanical ventilation may be installed at the proposed Child Care Centre, the operation of such mechanical plant must be in accordance with the relevant regulations such as the Building Code of Australia (BCA Vol.1, Part 4.5 *Ventilation of rooms*) and AS1668.2-2002 *The use of ventilation and air conditioning in buildings* will be required.

A specific mechanical plant selection has not been supplied at this stage. However, it is noted that the air conditioning (AC) condenser unit is situated on the western boundary of the site. This location of the AC condenser unit should be relocated on the eastern boundary of the site. If for any reason the AC condenser unit cannot be relocated, then it will likely need to be acoustically enclosed.

An appropriately qualified acoustic consultant should review the mechanical plant associated with the development at the detailed design stage when final plant selections have been made.

### 5.5 Road Traffic Noise Intrusion into Centre

#### 5.5.1 Outdoor Play Area

Road noise on the south side of the site is influenced by road traffic along Brobenah Road and was measured to be 59dB(A)  $L_{Aeq}(1hour)$  at the front yard.

The predicted traffic noise impacts at the outdoor play areas are presented Table 5-5 below. The predicted noise level includes the noise barrier as noted in Section 5.1 and Section 6.5.



Table 5-5 Predicted Road Traffic Noise Levels Into Outdoor Play Areas

Area	Predicted $L_{Aeq}$ Road Traffic Noise Level – dB(A)	Noise Criterion $L_{Aeq}$ – dB(A)	Compliance (Yes / No)
Play Area 1	48	55	Yes

Existing road traffic noise levels in the Outdoor Play areas are predicted to comply with the  $L_{Aeq,(1hour)}$  55 dB(A) (external) criterion stipulated in Section 5.5.1. Based on this assessment no additional noise control measures will be required.

### 5.5.2 Indoor Areas

The typical outdoor to indoor noise reduction provided by most standard glazed facades (i.e. without special acoustical treatment) is generally accepted as being 10dB through an open window. A closed window is likely to provide at least 20dB noise reduction or more depending on the acoustic performance of the glazing.

It was noted that some windows are fixed and not operable. Determination of closing window/doors is only for the operable glazed window/doors. Taking into account the distance, shielding and glazing performance, the resultant indoor noise levels for opened and closed windows at the northern facade, corresponding to the typical noise reductions are as follow:

Table 5-6 Predicted Road Traffic Noise Levels Into Indoor Areas

Area	Predicted $L_{Aeq}$ Road Traffic Noise Level – dB(A)		Rw Glazing Requirement	Noise Criterion $L_{Aeq}$ – dB(A)	Compliance (Open / Closed)
	Windows Open	Windows Closed			
Playroom 1	35	25	30	40	Open
Playroom 2	35	25	30	40	Open
Playroom 3	46	36	30	40	Open
Playroom 4	46	36	30	40	Open
Playroom 5	42	32	30	40	Closed
Cot	42	32	35	40	Closed

The glazing system for both sleeping rooms should have an acoustic rating of  $R_w$  35. The glazing systems for all other rooms should have an acoustic rating of  $R_w$  30 We note that the  $R_w$  rating is required for the complete glazing and frame assembly. The minimum glazing thicknesses will not necessarily meet the required  $R_w$  rating without an appropriate frame system. It will be necessary to provide a window glass and frame system having a laboratory tested acoustic performance meeting the specified requirements.



## 6 RECOMMENDATIONS

The following recommendations must be implemented in order to achieve compliance with the noise requirements from the AAAC noise guideline.

### 6.1 Outdoor Play Areas

In order to achieve compliance with AAAC's noise requirements for outdoor play, the following must be implemented:

- Maximum of 40 x 3-5 year old children outside and 12 x 0-2 year old children outside at one time.
- Children are only permitted to be outside during the day time period (7am to 6pm)
- No music is to be played in the outdoor areas.
- Children must be supervised at all times.

### 6.2 Indoor Play Areas

In order to achieve compliance with council's noise requirements for outdoor play, the following must be implemented:

- The windows marked orange in Figure 6-3 must be closed during intensive indoor play time (e.g. children screaming or singing and/or the use of speakers/music).
- The glazing for the windows for the sleep rooms should have a minimum acoustic rating Rw 35, all remaining glazing can be standard Rw 30 rating window.

### 6.3 Car Park Noise Control Measures

The following noise control measures and management plan should be implemented for the carpark space:

- Parents and guardians should be informed of the importance of noise minimisation when entering the site, dropping off or picking up children. This includes avoiding raising your voice within the centre's carpark area or beeping car horn.
- Staff, parents and delivery vehicles should not enter the site before 7am.
- Staff parking spots should be assigned to the southern boundary of the parking lot

### 6.4 Internal Acoustic Recommendation for the Cot Room

Figure 6-1 presents the wall, door and window construction to ensure noise amenity for the cot room is achieved. The table includes the Rw performance of the typical wall that achieves the Difference Weighting (Dw) requirement. Alternative wall or door can be selected, provided they achieve the Rw rating outlined in the table below.



Table 6-1 Recommended wall and door construction

Source Room	Receiver Room	Dw requirement	Typical Wall/Door Construction to Satisfy Dw Requirement
			Door: Lotus Acoustic Sliding Door or similar sliding door capable of achieving Rw 33.
Cot Room	Babies Room Area No. 1	25	Wall: 10mm Plasterboard, twin stud with 20mm air gap in between, insulation, 10mm Plasterboard (Rw 45) & Glazing 10.38mm laminated glass (Rw 35)
Cot Room	Bottle Prep Room	35	Wall: 10mm Plasterboard, twin stud with 20mm air gap in between, insulation, 10mm Plasterboard (Rw 45)
Cot Room	Store Laundry	35	Wall: 10mm Plasterboard, twin stud with 20mm air gap in between, insulation, 10mm Plasterboard (Rw 45)

It should be noted the internal surrounding walls of the Cot room should be a 'discontinuous' wall (containing at least a 20mm air gap) to ensure noise impact does not disturb children's sleep.

Any wall that requires Rw 30 or greater will require the wall to be constructed to full height (ground to ceiling) to minimise noise transmission to adjoining rooms. For walls that require less than Rw 35 then the wall partition does not necessarily need to be constructed to full height; however, 14kg/m<sup>3</sup> baffle block on each side of the partition in the ceiling cavity are to be installed.

Figure 6-1 and Figure 6-2 present the solid wall detailing requirement for the cot room.



Figure 6-1 Solid Wall Detail – Full Height for wall with  $R_w$  35 or greater

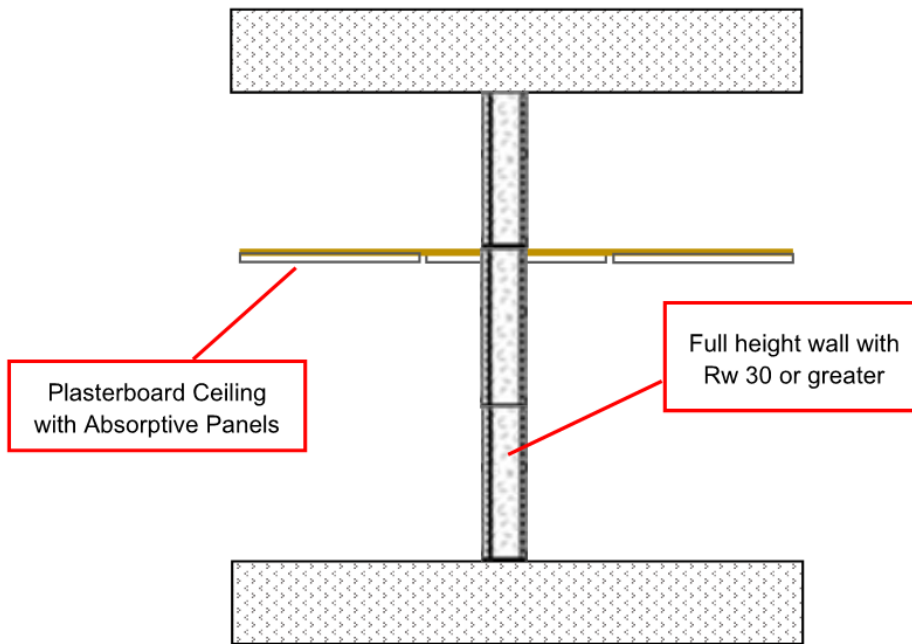
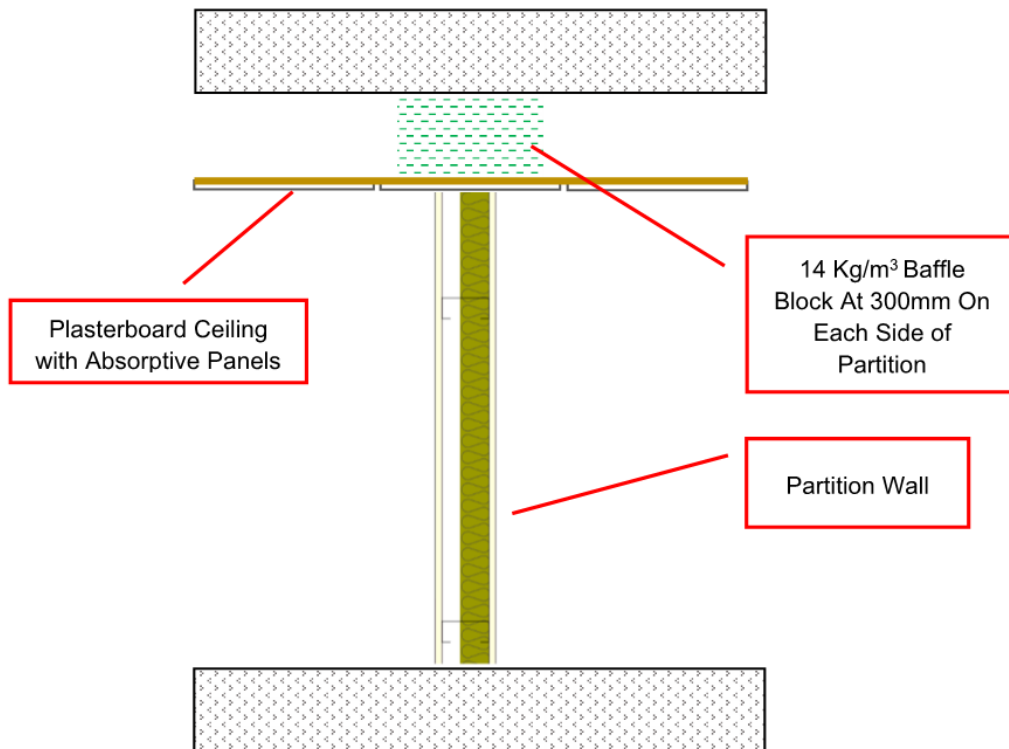


Figure 6-2 Solid Wall Detail – for wall with less than  $R_w$  30





## 6.5 Acoustic Barrier Details

The following noise barriers have been included in the noise prediction model (which is also presented in Figure 6-3):

- 2.1m high barrier with an angled cantilever on top (total 2.6m high) along the western outdoor playground boundary
- 2.1m solid barrier along the remaining western boundary and southern boundary
- 1.8m solid barrier on the along the western, northern and eastern boundary of the site.

Acoustic barrier is required to provide the adequate noise attenuation, the construction material of the barriers must have a surface density of 10-15 kg/m<sup>2</sup> and be free from holes and gaps. Some suitable materials include:

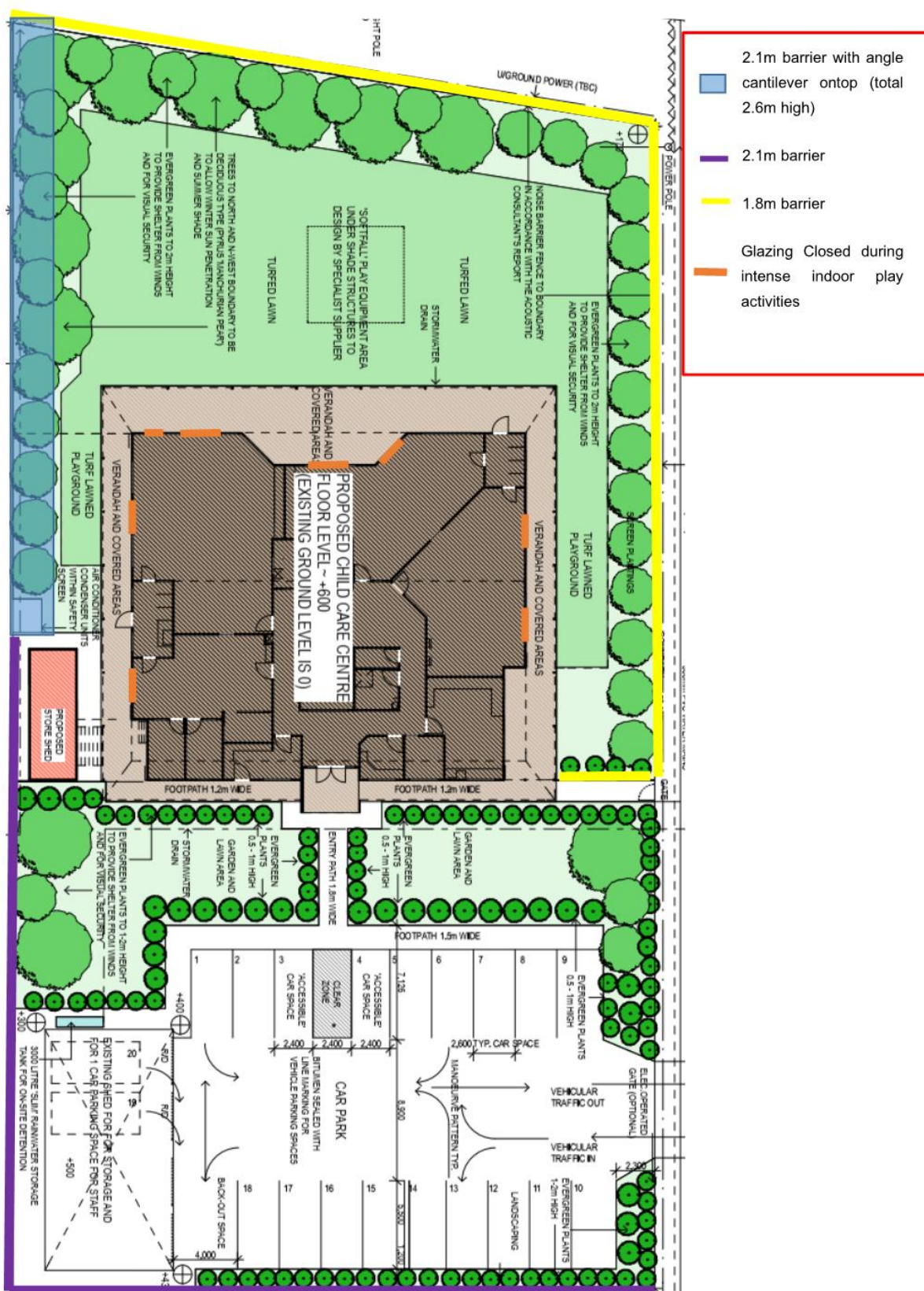
- 25 mm thick plywood timber panelling
- Light Acoustic Lap & Cap Timber Fence (approximately 12 kg/m<sup>2</sup>)
- 9 mm thick fibre cement sheet
- 75mm thick Hebel Powerpanel
- 12 mm thick Perspex, polycarbonate or Danpalon
- 6 mm toughened laminated safety glass
- Any other approved material which meets the above surface density specification

A typical material used in childcare centres is Perspex, which is a polycarbonate material. The use of the 12 mm thick Perspex or 6 mm glass for this purpose which has a surface mass of 11 kg/m<sup>2</sup> will meet the mass requirements detailed above and be suitable for use as it is transparent and will not unduly restrict light or vision.

All barriers must be free of gaps and penetrations and it is particularly important to ensure that the gap at the bottom of the barrier is minimised as far as practicable. The base of the barriers should be well sealed at the junction where the barrier meets the floor, but still be designed to allow proper water drainage.



Figure 6-3 Proposed Child Care Centre Layout







## 7 CONCLUSION

RSA has conducted a noise impact assessment of the proposed Child Care Centre at 39-45 Brobenah Road, Leeton. The assessment has comprised the establishment of noise criteria and assesses noise impacts with regard to relevant statutory requirements.

Traffic noise intrusion into the indoor areas has been assessed to exceed the noise criteria as set out in Section 3.2.1.

Noise emissions from the outdoor area play activities to the nearest residential receivers have been calculated to comply with the noise criterion, where all children are playing outside at any given time. The barrier onsite must consist of:

- 2.1m high barrier with an angled cantilever ontop (total 2.6m high) along the western outdoor playground boundary
- 2.1m solid barrier along the remaining western boundary and southern boundary
- 1.8m solid barrier on the along the western, northern and eastern boundary of the site.

Noise emissions from the carpark to the nearest residential receivers have been calculated to comply with the noise criterion, a 2.1 metre solid barrier on the southern boundary must be erected. (Refer to Figure 6-3).

Criteria for noise emissions from mechanical plant have been established, a further acoustic survey by a qualified acoustic consultant will be required once mechanical plant schedules have been selected.

Based on our assessment the proposed Child Care Centre at 39-45 Brobenah Road, Leeton is deemed to not cause "Offensive Noise" to neighbouring residences provided that the noise control measures recommended is implemented. It is therefore recommended that planning approval be granted for the proposed development on the basis of acoustics.

Approved:-

Rodney Stevens  
Manager/Principal

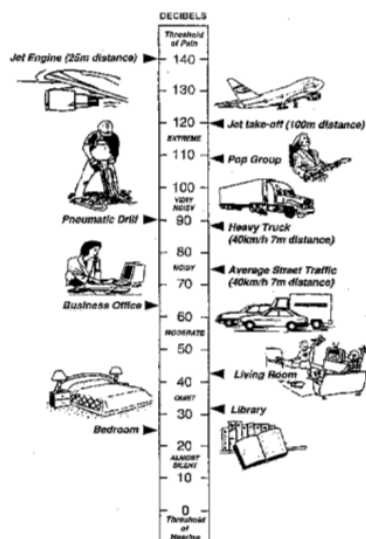


## Appendix A – Acoustic Terminology

<b>A-weighted sound pressure</b>	The human ear is not equally sensitive to sound at different frequencies. People are more sensitive to sound in the range of 1 to 4 kHz (1000 – 4000 vibrations per second) and less sensitive to lower and higher frequency sound. During noise measurement an electronic ' <i>A-weighting</i> ' frequency filter is applied to the measured sound level <i>dB(A)</i> to account for these sensitivities. Other frequency weightings (B, C and D) are less commonly used. Sound measured without a filter is denoted as linear weighted <i>dB(linear)</i> .
Ambient noise	The total noise in a given situation, inclusive of all noise source contributions in the near and far field.
<b>Community annoyance</b>	Includes noise annoyance due to: <ul style="list-style-type: none"><li>■ character of the noise (e.g. sound pressure level, tonality, impulsiveness, low-frequency content)</li><li>■ character of the environment (e.g. very quiet suburban, suburban, urban, near industry)</li><li>■ miscellaneous circumstances (e.g. noise avoidance possibilities, cognitive noise, unpleasant associations)</li><li>■ human activity being interrupted (e.g. sleep, communicating, reading, working, listening to radio/TV, recreation).</li></ul>
Compliance	The process of checking that source noise levels meet with the noise limits in a statutory context.
Cumulative noise level	The total level of noise from all sources.
<b>Extraneous noise</b>	Noise resulting from activities that are not typical to the area. Atypical activities may include construction, and traffic generated by holiday periods and by special events such as concerts or sporting events. Normal daily traffic is not considered to be extraneous.
<b>Feasible and reasonable measures</b>	Feasibility relates to engineering considerations and what is practical to build; reasonableness relates to the application of judgement in arriving at a decision, taking into account the following factors: <ul style="list-style-type: none"><li>■ Noise mitigation benefits (amount of noise reduction provided, number of people protected).</li><li>■ Cost of mitigation (cost of mitigation versus benefit provided).</li><li>■ Community views (aesthetic impacts and community wishes).</li><li>■ Noise levels for affected land uses (existing and future levels, and changes in noise levels).</li></ul>
Impulsiveness	Impulsive noise is noise with a high peak of short duration or a sequence of these peaks. Impulsive noise is also considered annoying.



Low frequency	Noise containing major components in the low-frequency range (20 to 250 Hz) of the frequency spectrum.
Noise criteria	The general set of non-mandatory noise levels for protecting against intrusive noise (for example, background noise plus 5 dB) and loss of amenity (e.g. noise levels for various land use).
<b>Noise level (goal)</b>	A noise level that should be adopted for planning purposes as the highest acceptable noise level for the specific area, land use and time of day.
Noise limits	Enforceable noise levels that appear in conditions on consents and licences. The noise limits are based on achievable noise levels, which the proponent has predicted can be met during the environmental assessment. Exceedance of the noise limits can result in the requirement for either the development of noise management plans or legal action.
Performance-based goals	Goals specified in terms of the outcomes/performance to be achieved, but not in terms of the means of achieving them.
<b>Rating Background Level (RBL)</b>	The rating background level is the overall single figure background level representing each day, evening and night time period. The rating background level is the 10 <sup>th</sup> percentile min L <sub>A90</sub> noise level measured over all day, evening and night time monitoring periods.
Receptor	The noise-sensitive land use at which noise from a development can be heard.
Sleep disturbance	Awakenings and disturbance of sleep stages.
Sound and decibels (dB)	<p>Sound (or noise) is caused by minute changes in atmospheric pressure that are detected by the human ear. The ratio between the quietest noise audible and that which should cause permanent hearing damage is a million times the change in sound pressure. To simplify this range the sound pressures are logarithmically converted to decibels from a reference level of 2 x 10<sup>-5</sup> Pa.</p> <p>The picture below indicates typical noise levels from common noise sources.</p>



dB is the abbreviation for decibel – a unit of sound measurement. It is equivalent to 10 times the logarithm (to base 10) of the ratio of a given sound pressure to a reference pressure.

Sound power Level (SWL)

The sound power level of a noise source is the sound energy emitted by the source. Notated as SWL, sound power levels are typically presented in *dB(A)*.

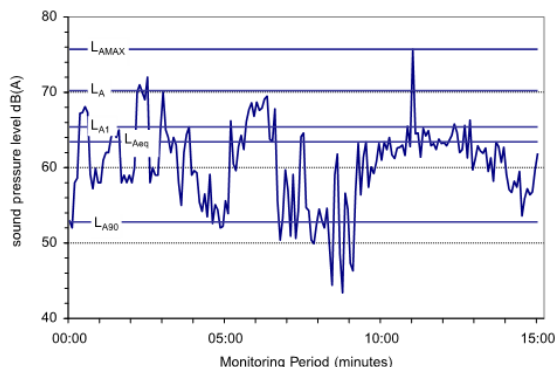
Sound Pressure Level (SPL)

The level of noise, usually expressed as SPL in *dB(A)*, as measured by a standard sound level meter with a pressure microphone. The sound pressure level in *dB(A)* gives a close indication of the subjective loudness of the noise.

Statistic noise levels

Noise levels varying over time (e.g. community noise, traffic noise, construction noise) are described in terms of the statistical exceedance level.

A hypothetical example of A weighted noise levels over a 15 minute measurement period is indicated in the following figure:



Key descriptors:

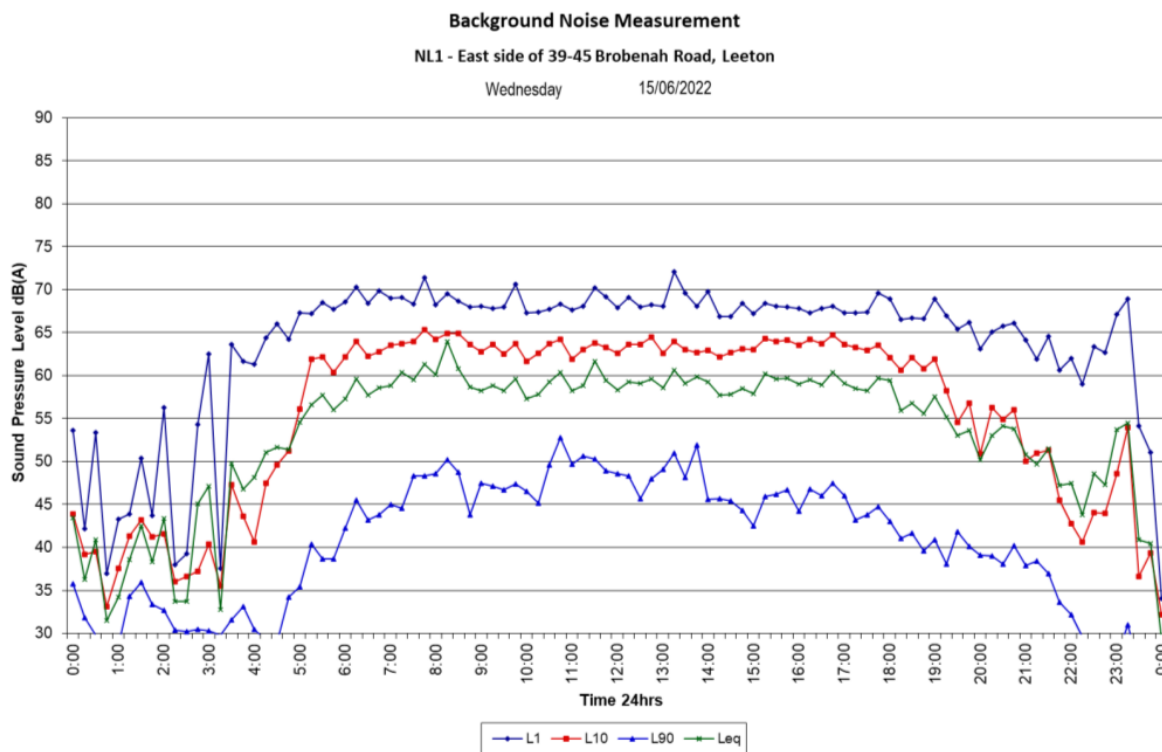
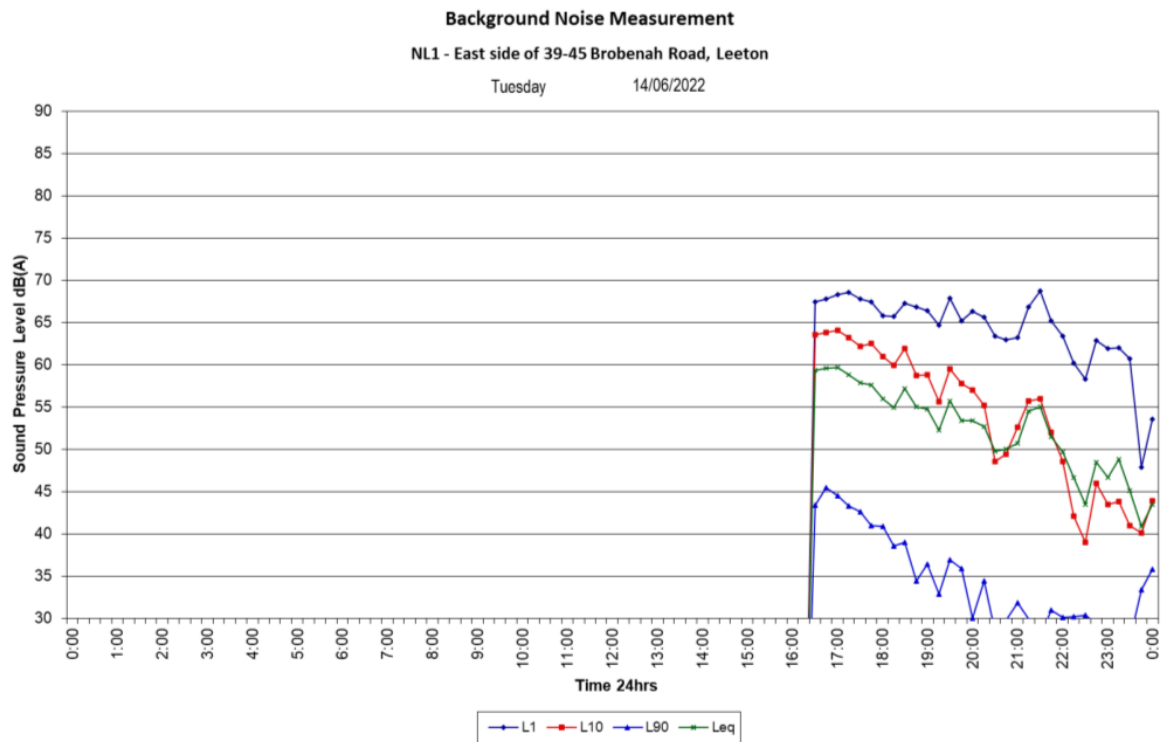
- L<sub>Amax</sub> Maximum recorded noise level.
- L<sub>A1</sub> The noise level exceeded for 1% of the 15 minute interval.

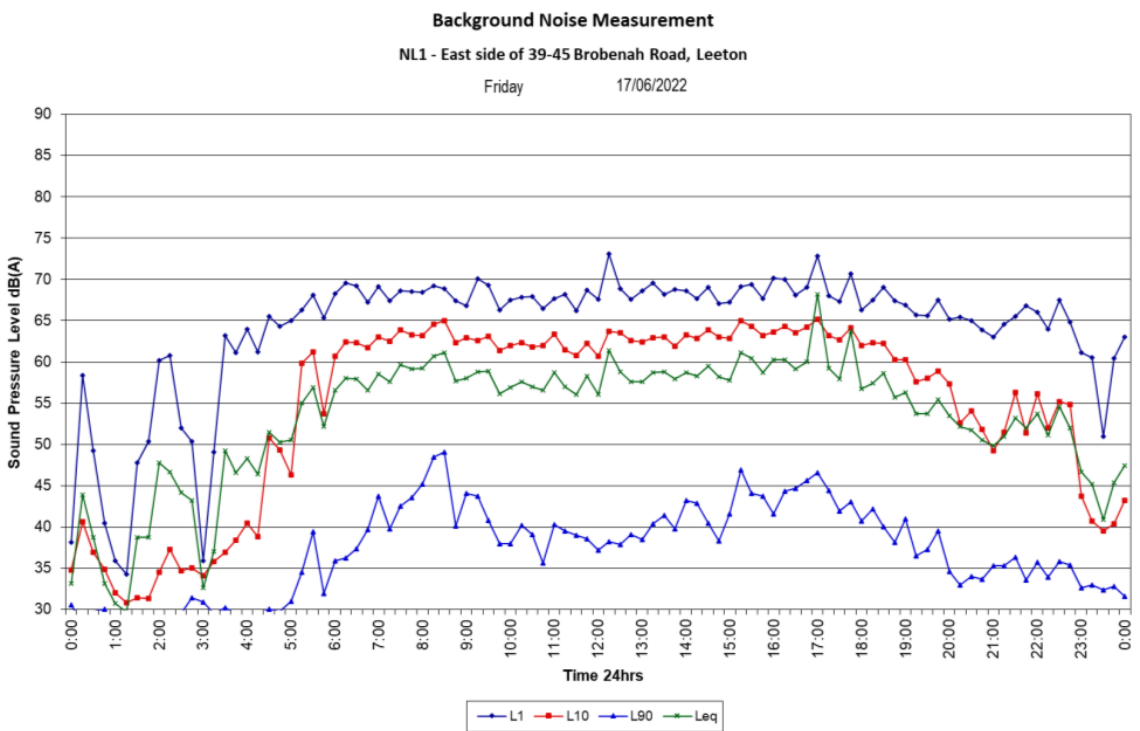
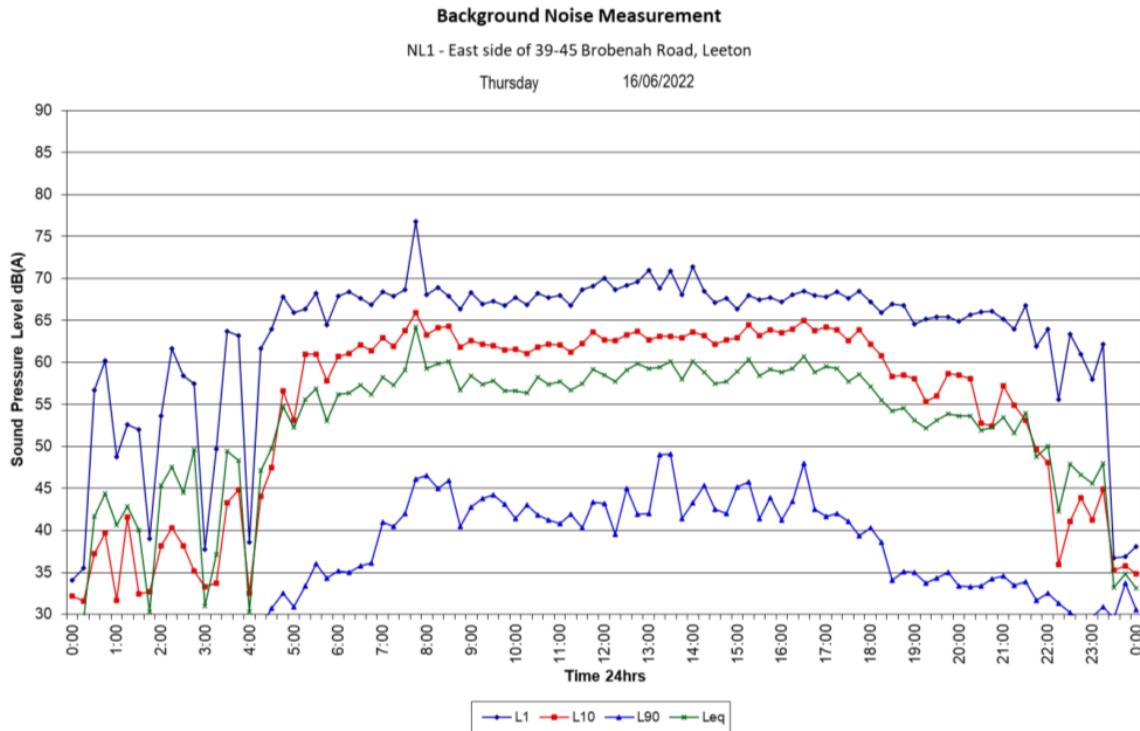


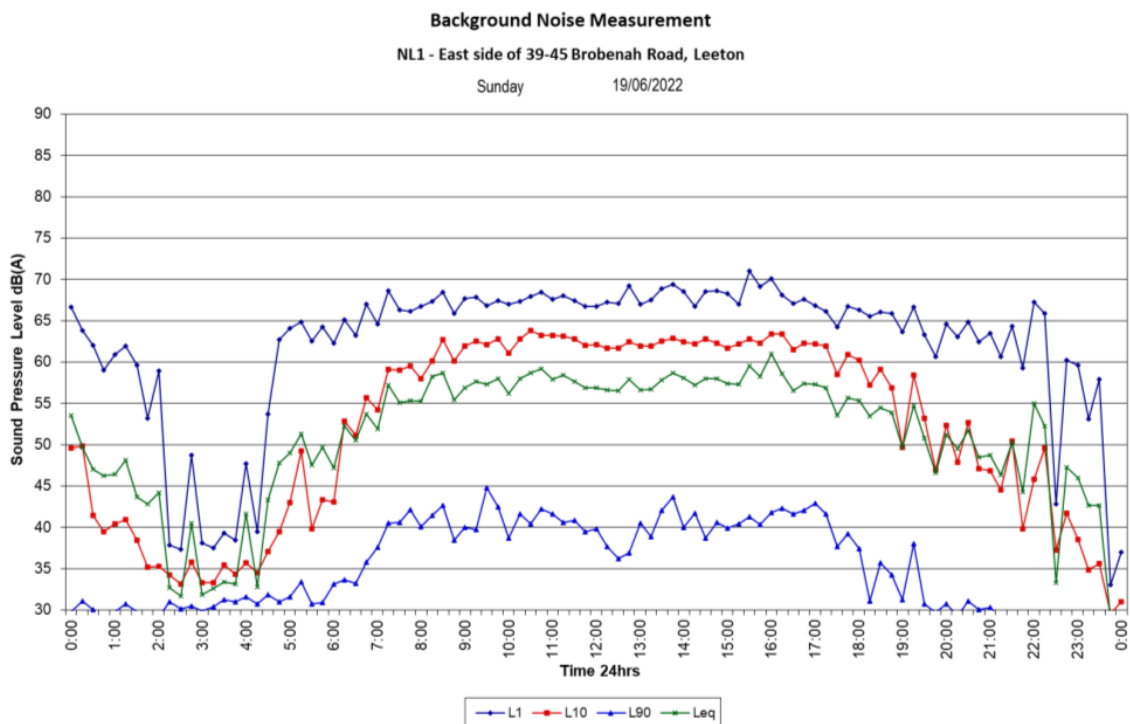
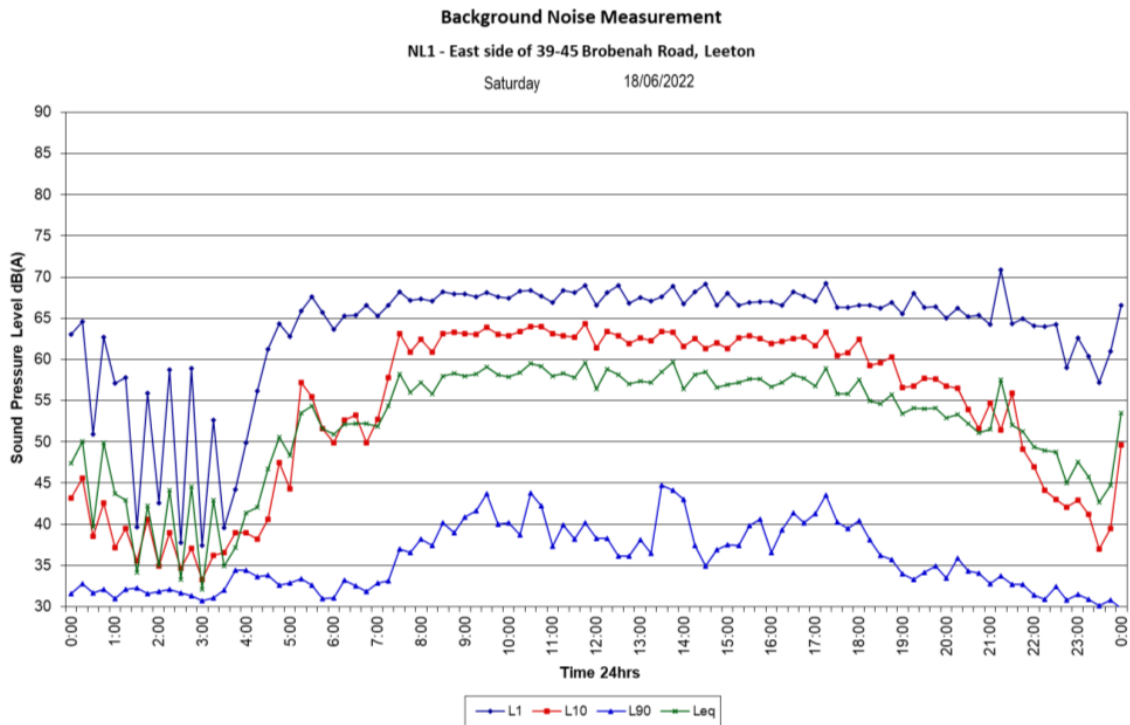
	<p><b>L<sub>A10</sub></b> Noise level present for 10% of the 15 minute interval. Commonly referred to the average maximum noise level.</p> <p><b>L<sub>Aeq</sub></b> Equivalent continuous (energy average) A-weighted sound pressure level. It is defined as the steady sound level that contains the same amount of acoustic energy as the corresponding time-varying sound.</p> <p><b>L<sub>A90</sub></b> Noise level exceeded for 90% of time (background level). The average minimum background sound level (in the absence of the source under consideration).</p>
Threshold	The lowest sound pressure level that produces a detectable response (in an instrument/person).
Tonality	Tonal noise contains one or more prominent tones (and characterised by a distinct frequency components) and is considered more annoying. A 2 to 5 dB(A) penalty is typically applied to noise sources with tonal characteristics



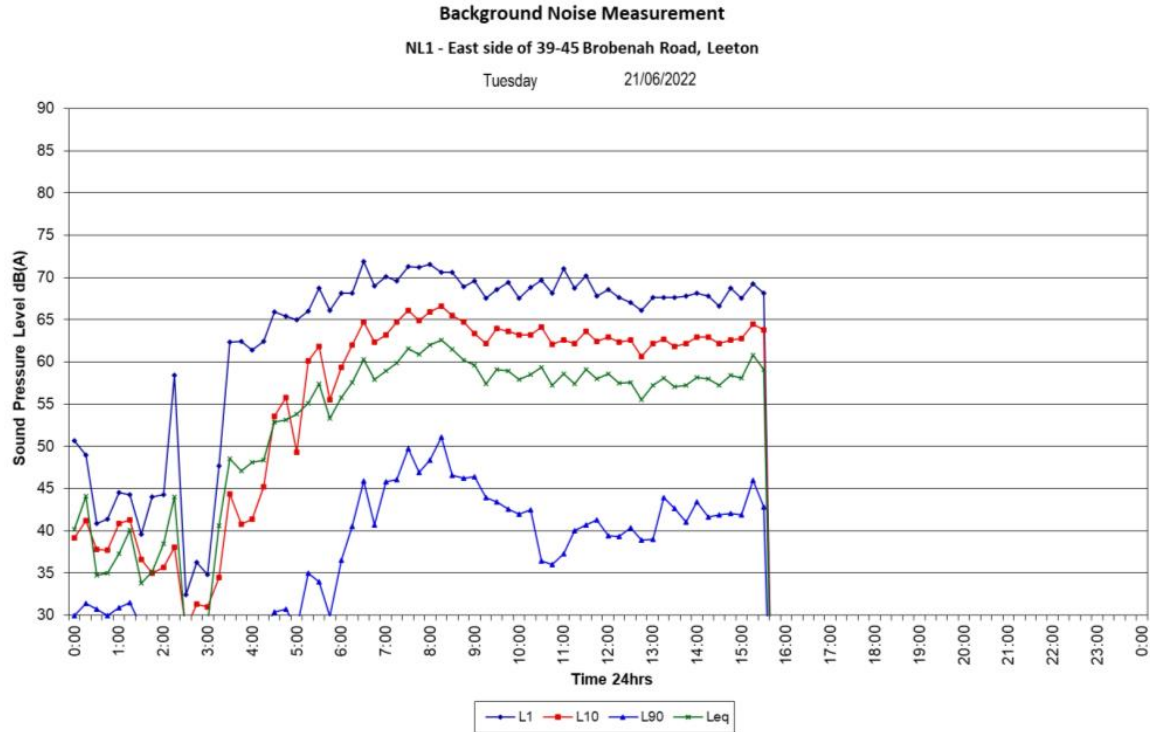
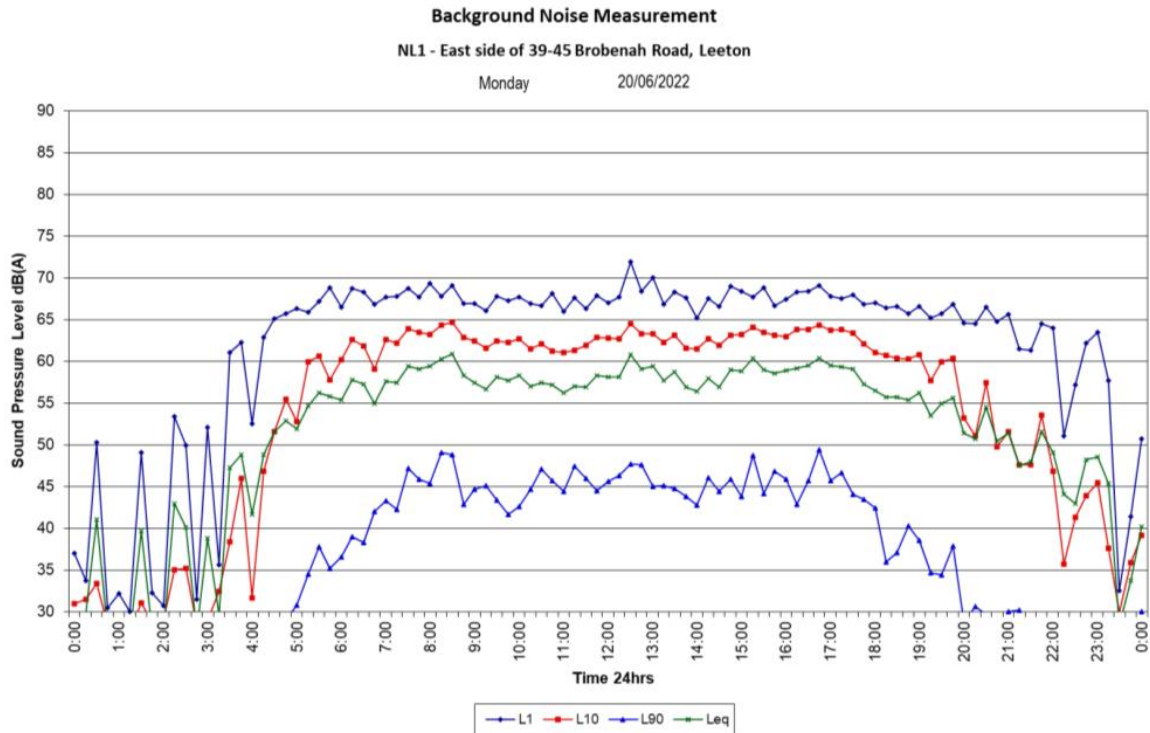
Appendix B – Logger Graphs

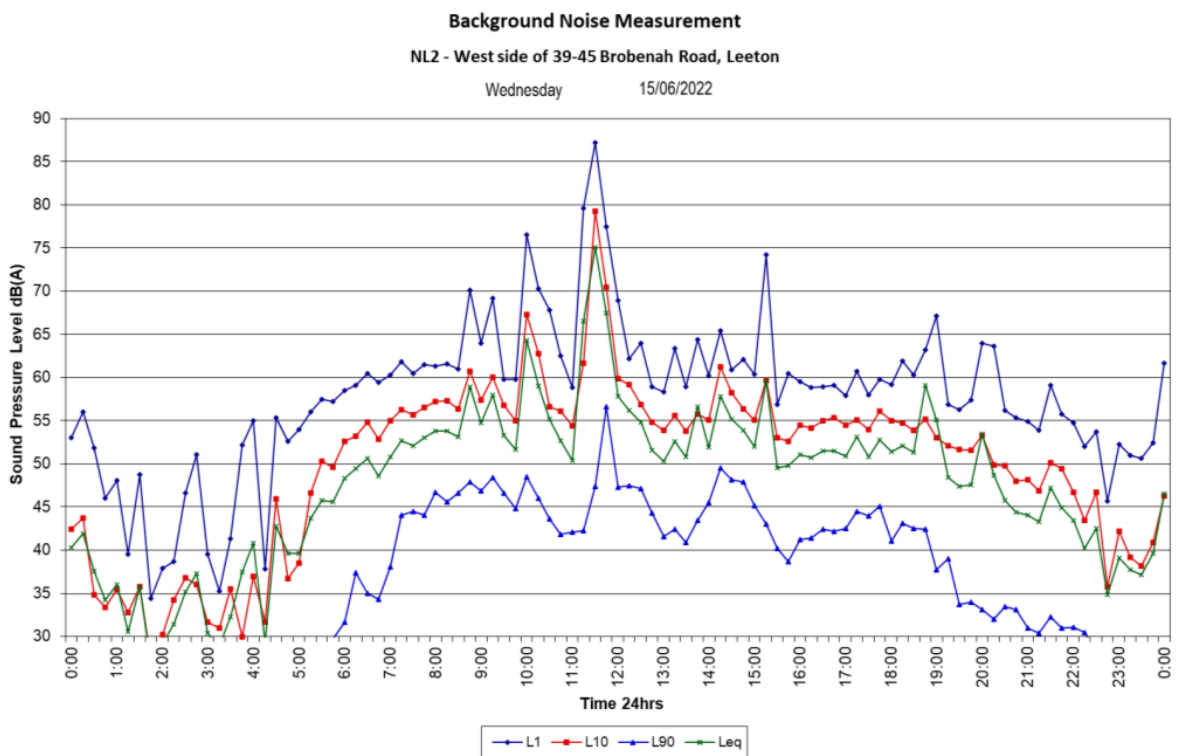
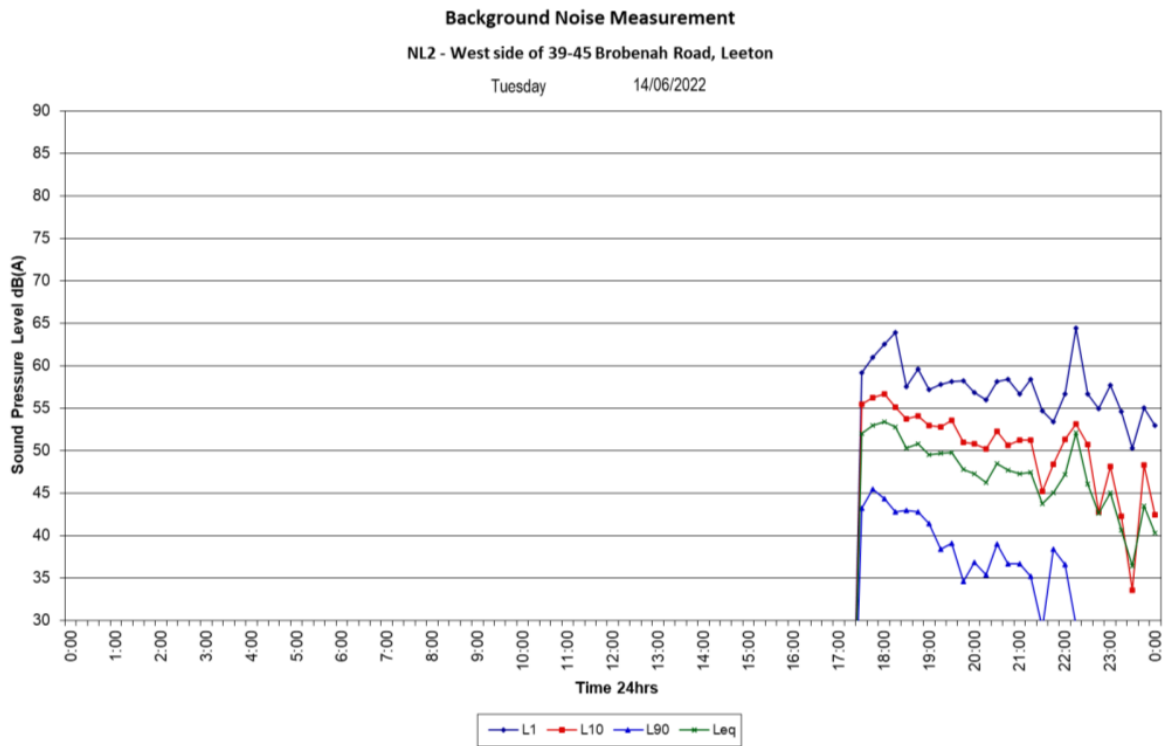


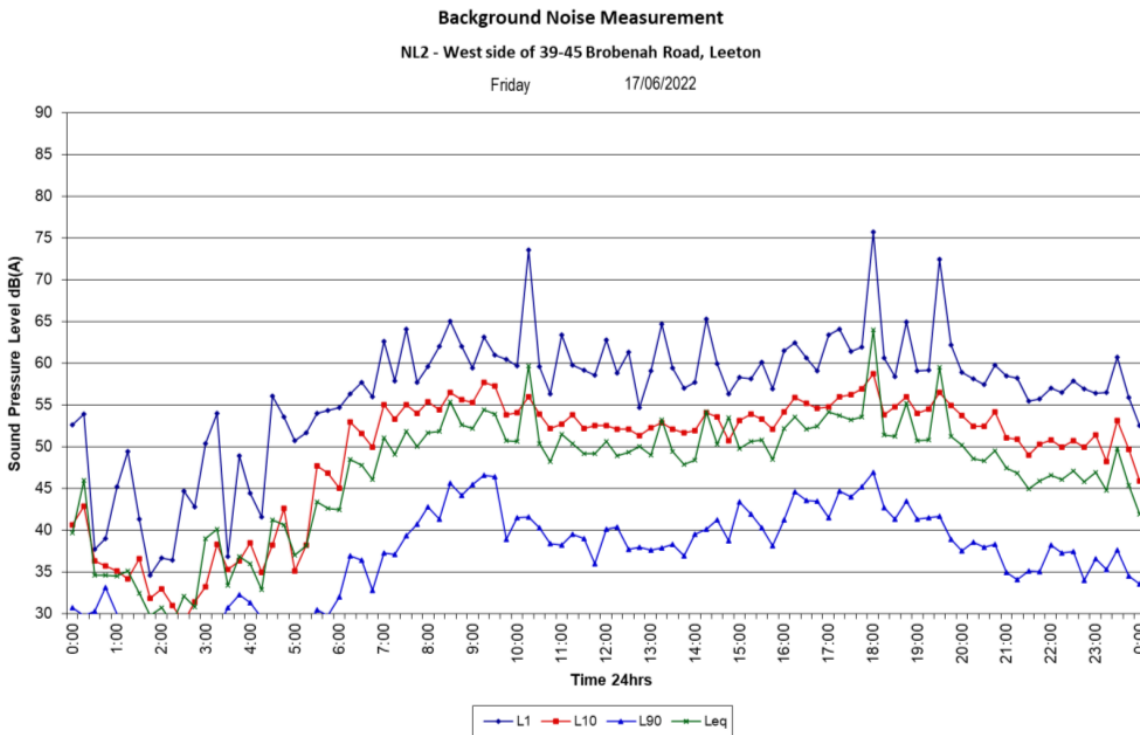
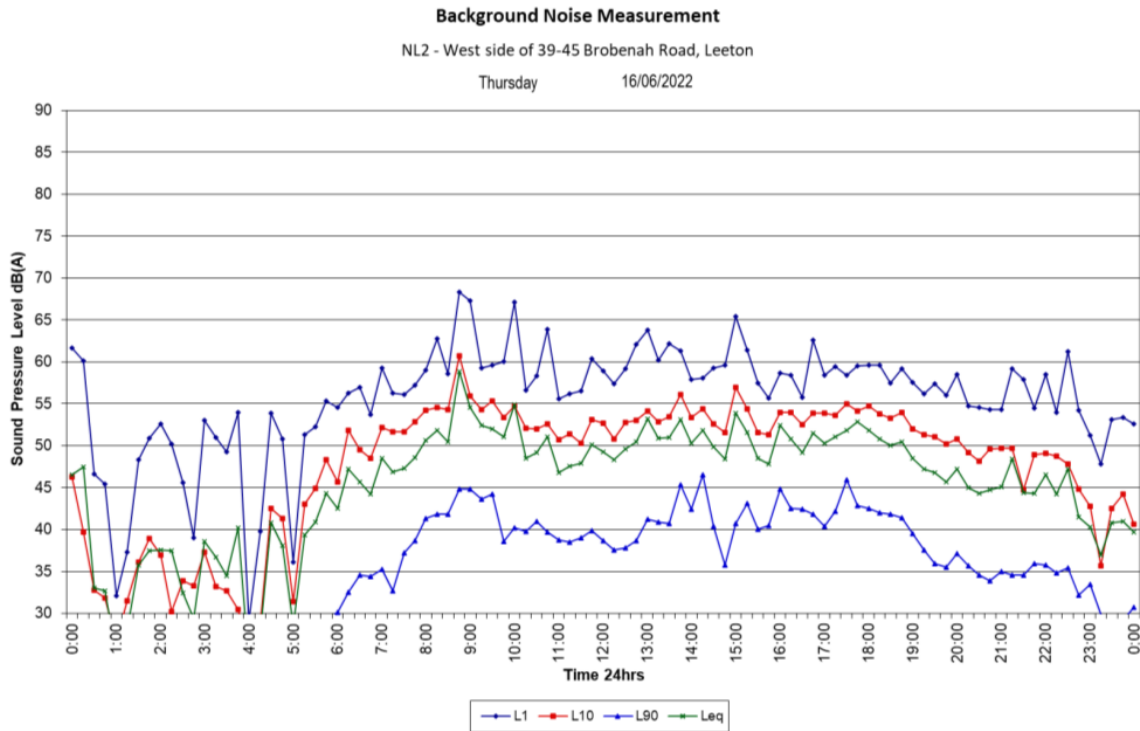


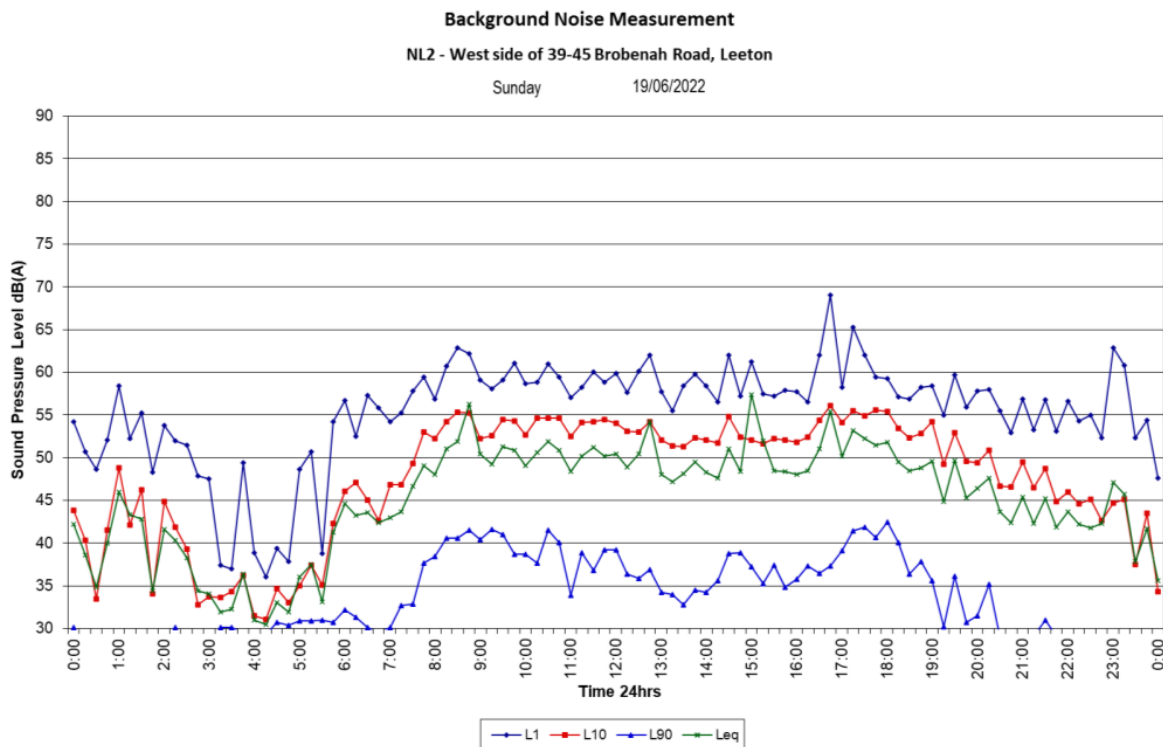
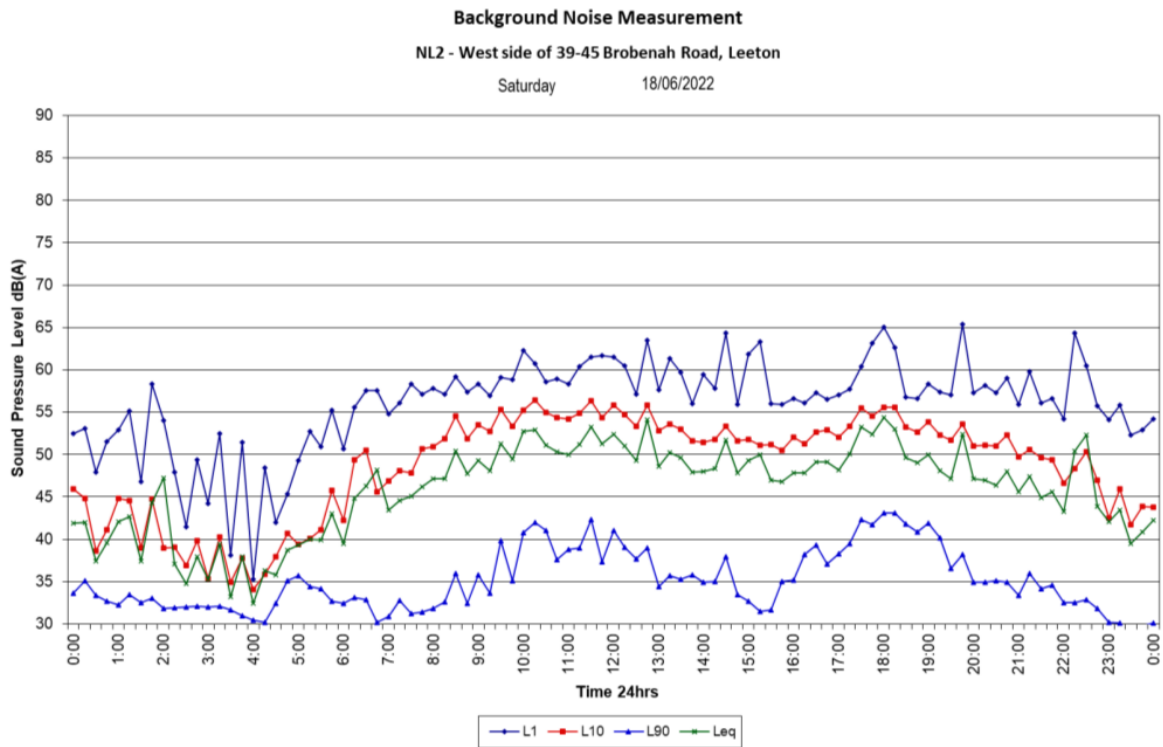


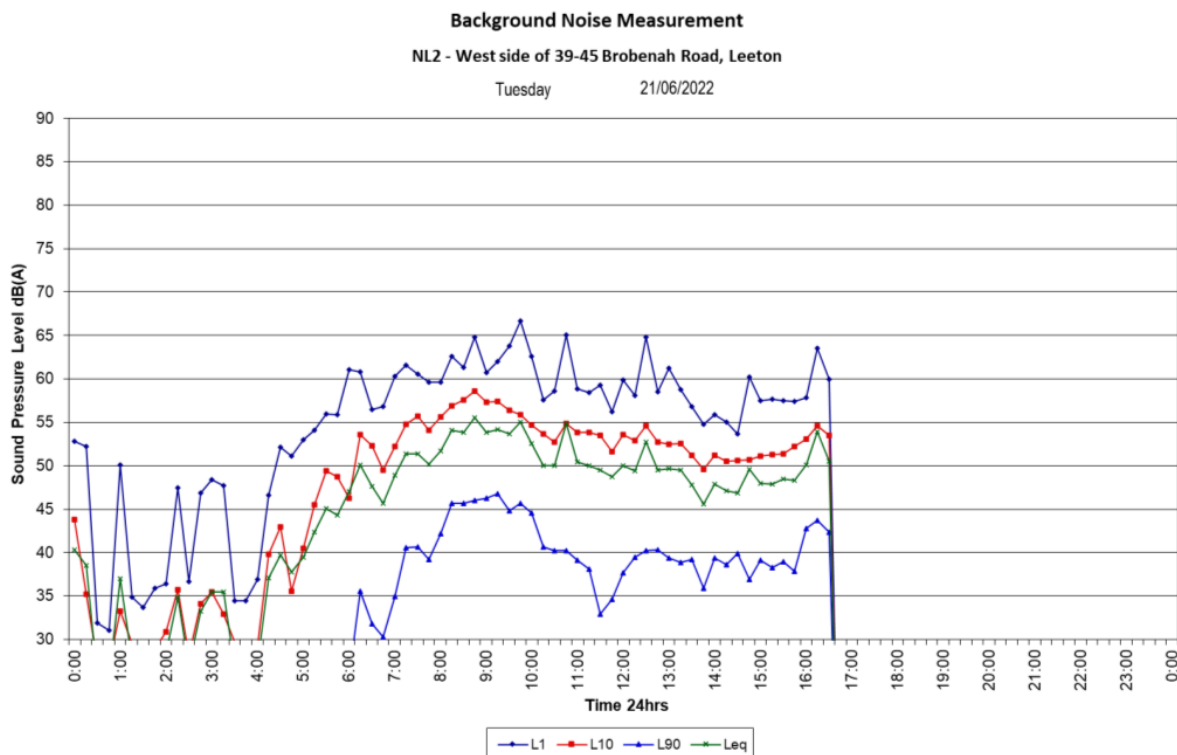
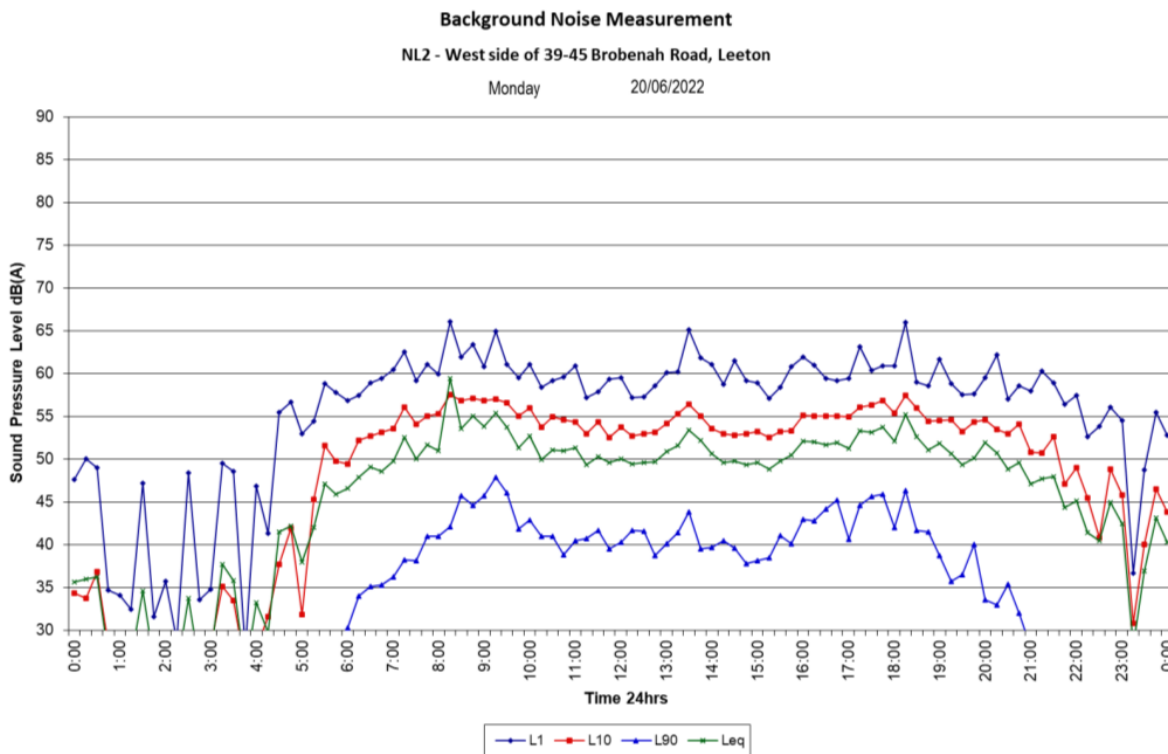














Appendix C – Calibration Certificate



**Sound Level Meter**  
 IEC 61672-3:2013  
**Calibration Certificate**  
 Calibration Number C21736

<b>Client Details</b>	Rodney Stevens Acoustics Pty Ltd PO Box 522 Wahroonga NSW 2076
<b>Equipment Tested/ Model Number :</b>	Rion NL-42EX
<b>Instrument Serial Number :</b>	00810779
<b>Microphone Serial Number :</b>	148338
<b>Pre-amplifier Serial Number :</b>	22257
<b>Pre-Test Atmospheric Conditions</b>	<b>Post-Test Atmospheric Conditions</b>
<b>Ambient Temperature :</b> 23.3°C	<b>Ambient Temperature :</b> 24°C
<b>Relative Humidity :</b> 54.3%	<b>Relative Humidity :</b> 52.4%
<b>Barometric Pressure :</b> 101.1kPa	<b>Barometric Pressure :</b> 101.1kPa
<b>Calibration Technician :</b> Lucky Jaiswal	<b>Secondary Check:</b> Rhys Gravelle
<b>Calibration Date :</b> 4 Nov 2021	<b>Report Issue Date :</b> 8 Nov 2021
<b>Approved Signatory :</b> <i>Ken Williams</i>	Ken Williams

Clause and Characteristic Tested	Result	Clause and Characteristic Tested	Result
12: Acoustical Sig. tests of a frequency weighting	Pass	17: Level linearity incl. the level range control	Pass
13: Electrical Sig. tests of frequency weightings	Pass	18: Toneburst response	Pass
14: Frequency and time weightings at 1 kHz	Pass	19: C Weighted Peak Sound Level	Pass
15: Long Term Stability	Pass	20: Overload Indication	Pass
16: Level linearity on the reference level range	Pass	21: High Level Stability	Pass

The sound level meter submitted for testing has successfully completed the class 2 periodic tests of IEC 61672-3:2013, for the environmental conditions under which the tests were performed.

However, no general statement or conclusion can be made about conformance of the sound level meter to the full requirements of IEC 61672-1:2013 because evidence was not publicly available, from an independent testing organisation responsible for pattern approvals, to demonstrate that the model of sound level meter fully conformed to the requirements in IEC 61672-1:2013 and because the periodic tests of IEC 61672-3:2013 cover only a limited subset of the specifications in IEC 61672-1:2013.

Least Uncertainties of Measurement - Environmental Conditions			
Acoustic Tests		Temperature	±0.1°C
125Hz	±0.13dB	Relative Humidity	±1.9%
1kHz	±0.13dB	Barometric Pressure	±0.014kPa
8kHz	±0.14dB		
Electrical Tests	±0.10dB		

All uncertainties are derived at the 95% confidence level with a coverage factor of 2.



This calibration certificate is to be read in conjunction with the calibration test report.

Acoustic Research Labs Pty Ltd is NATA Accredited Laboratory Number 14172. Accredited for compliance with ISO/IEC 17025 - calibration.

The results of the tests, calibrations and/or measurements included in this document are traceable to SI units.

NATA is a signatory to the ILAC Mutual Recognition Arrangement for the mutual recognition of the equivalence of testing, medical testing, calibration and inspection reports.



**Sound Level Meter**  
 IEC 61672-3:2013  
**Calibration Certificate**  
 Calibration Number C19389

<b>Client Details</b>	Rodney Stevens Acoustics Pty Ltd 1 Majura Close St Ives Chase NSW 2075
<b>Equipment Tested/ Model Number :</b>	Rion NL-42EX
<b>Instrument Serial Number :</b>	00133010
<b>Microphone Serial Number :</b>	144601
<b>Pre-amplifier Serial Number :</b>	23060
<b>Pre-Test Atmospheric Conditions</b>	<b>Post-Test Atmospheric Conditions</b>
<b>Ambient Temperature :</b> 25°C	<b>Ambient Temperature :</b> 24.8°C
<b>Relative Humidity :</b> 41.7%	<b>Relative Humidity :</b> 41.5%
<b>Barometric Pressure :</b> 100.8kPa	<b>Barometric Pressure :</b> 100.8kPa
<b>Calibration Technician :</b> Lucky Jaiswal	<b>Secondary Check:</b> Eloise Burrows
<b>Calibration Date :</b> 2 Jul 2019	<b>Report Issue Date :</b> 8 Jul 2019
<b>Approved Signatory :</b>	Ken Williams

Clause and Characteristic Tested	Result	Clause and Characteristic Tested	Result
12: Acoustical Sig. tests of a frequency weighting	Pass	17: Level linearity incl. the level range control	Pass
13: Electrical Sig. tests of frequency weightings	Pass	18: Toneburst response	Pass
14: Frequency and time weightings at 1 kHz	Pass	19: C Weighted Peak Sound Level	Pass
15: Long Term Stability	Pass	20: Overload Indication	Pass
16: Level linearity on the reference level range	Pass	21: High Level Stability	Pass

The sound level meter submitted for testing has successfully completed the class 2 periodic tests of IEC 61672-3:2013, for the environmental conditions under which the tests were performed.

However, no general statement or conclusion can be made about conformance of the sound level meter to the full requirements of IEC 61672-1:2013 because evidence was not publicly available, from an independent testing organisation responsible for pattern approvals, to demonstrate that the model of sound level meter fully conformed to the requirements in IEC 61672-1:2013 and because the periodic tests of IEC 61672-3:2013 cover only a limited subset of the specifications in IEC 61672-1:2013.

Least Uncertainties of Measurement - Environmental Conditions			
Acoustic Tests		Environmental Conditions	
31.5 Hz to 8kHz:	±0.15dB	Temperature	±0.2°C
12.5kHz:	±0.2dB	Relative Humidity	±2.4%
16kHz:	±0.29dB	Barometric Pressure	±0.015kPa
Electrical Tests			
31.5 Hz to 20 kHz:	±0.11dB		

*All uncertainties are derived at the 95% confidence level with a coverage factor of 2.*



This calibration certificate is to be read in conjunction with the calibration test report.

Acoustic Research Labs Pty Ltd is NATA Accredited Laboratory Number 14172. Accredited for compliance with ISO/IEC 17025 - calibration.

The results of the tests, calibrations and/or measurements included in this document are traceable to Australian/national standards.

NATA is a signatory to the ILAC Mutual Recognition Arrangement for the mutual recognition of the equivalence of testing, medical testing, calibration and inspection reports.

PAGE 1 OF 1