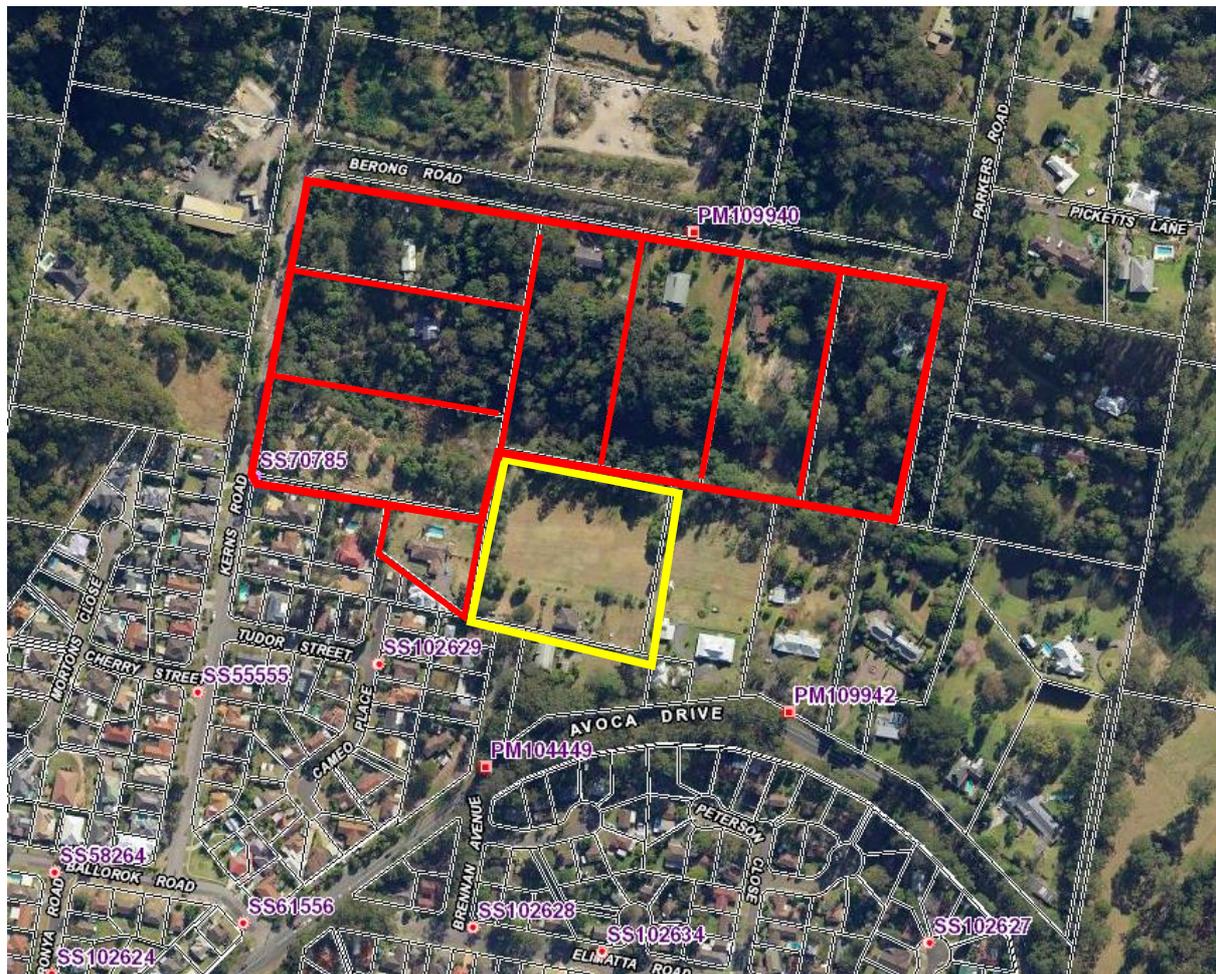


General Manager  
Central Coast Council  
49 Mann Street  
Gosford 2250 NSW

Attn: Karen Hanratty

**Re: Objection to Development - DA 011.2020.00058154.001 (14 Brennan Avenue)**

Following discussions with a Town Planning consultant, please find the following objection letter (dated 7 May, 2020) for the above-mentioned DA at 14 Brennan Avenue, Kincumber.



**Figure 1: Aerial image**

Figure 1 identifies eight properties in red that will be impacted by the proposal. As discussed below, the Noise Assessment has provided no assessment or justification of acoustic impacts to properties in the north.

Although not against progress or infrastructure that can provide benefits to the community like childcare, our objection is predominantly in relation to the commercialisation of an area that exhibits significant environmental values to the north and the potential impacts to

property prices, existing and desired future amenity and development potential. This area of Kincumber is not a commercially zoned locality and whilst child care is permissible in the 7(c2) zone, the objectives specifically require compatibility with surrounding development. The childcare centre is entirely incompatible with surrounding property as discussed below.

The valley and coastal rainforest in this area is home to an abundance of native wildlife and fauna that play an important role within local ecosystems. These areas deserve to be protected from the harm of commercial development that is unsuitable for the 7(a) and 7(c2) zones.

## **Points of Objection** -----

### **Character**

The objectives of the Character chapter of Gosford DCP are as follows:

- *Protect and enhance environmental character that distinguishes Gosford City's identity, and*
- *Enhance the City's identity by development that displays improved standards of scenic, urban and civic design quality*

The proposed development is inconsistent with the above objectives for the following reasons:

- The development will not enhance or protect the character of environmentally sensitive properties to the north of the site with rear to north outdoor play areas and petting zoo located to directly interfere with reasonable enjoyment of this land. The impacts to character are significant; these eight properties are cherished for their peaceful outlook and rural qualities and highly sought after for their location only a few minutes from shopping centres and beaches. In addition, two of these properties are registered wildlife sanctuaries as discussed below.
- The proposal will not enhance the city's identity, nor will it improve the scenic quality of the locality. To the contrary, the proposal will detract from the established semi-rural landscape that is highly sought after in this pocket of Kincumber.

### **Impact to Adjacent Nature Sanctuaries**

The proposed development will generate unacceptable impact to two (2) registered animal sanctuaries directly adjacent to the northern boundary of 14 Brennan Avenue. Both sites have been registered with the Humane Society International Wildlife Land Trust since 2015.

'Underhill Reserve' and 'Ray's Refuge', both incorporating 1.22 ha allotments, are home to a wide variety of wildlife species with regular sighting of swamp wallabies (*Wallabia bicolor*), a large variety of reptiles including lace monitors (*Varanus varius*) and eastern water dragons (*Intellagama lesueurii*), as well as a variety of small freshwater species in the creek, butterflies and other insects.

The sanctuaries also provide important habitat for tawny frogmouths (*Podargus strigoides*), Australian brush turkeys (*Alectura lathamii*), laughing kookaburras (*Dacelo*

*novaeguineae*) and various ducks, parrots and finches. White-bellied sea (*Haliaeetus leucogaster*) and wedge-tailed (*Aquila audax*) eagles occasionally visit the sanctuary.

The acoustic noise associated with operational use of a commercial childcare centre in close proximity to this habitat is likely to generate significant impacts to these areas. Even where potential displacement of fauna is likely, the submitted DA documentation provide no assessment of the development on adjacent bushland to the north. These properties are zoned to accommodate such rare biodiversity values and it is unacceptable that council would entertain supporting a commercial development where the true level of impact to native flora and fauna is completely unknown.

## **Zoning**

The development site is zoned 7 (c2) under the Gosford IDO. Objectives of the zone are provided below for reference:

*(a) to provide a buffer or transition zone between conservation areas and urban areas; and*

*(b) to enable development for the purposes of rural-residential holdings to be carried out on land which is suitable for those purposes and which is unlikely:*

*(i) to adversely affect the aesthetic and scenic value of the land and its setting; or*

*(ii) to create a demand for the uneconomic provision of services; and*

*(c) to allow for non-residential uses where those uses are:*

*(i) compatible with rural-residential development and unlikely to create an unreasonable demand for public services or substantially reduce existing levels of service;*

*(ii) unlikely to adversely affect the aesthetic and scenic value of the land and its setting; and (iii) unlikely to interfere unreasonably with the amenity of adjoining properties.*

The proposal is inconsistent with the objectives of the zone with reasoning as follows:

- The development is a non-residential use that is incompatible with rural residential/ environmental uses to the north and east with respect to acoustic impact, character, traffic impacts and safety of pedestrians on Brennan Avenue;
- As discussed above, the proposed development will adversely impact the existing scenic character of the 7(a) and 7(c2) lands through the commercialisation of important rural residential properties. The proposal will also alter the desired future character of the area, noting that a large scale commercial child care centre with parking for 32 vehicles is unlike any other development, either commercially based or home industry, in the Kincumber valley area.
- The proposal will unreasonably interfere with the amenity of the existing area. The noise and increase to vehicle movements is at odds with the established amenity of this quiet locality and the proposal is better suited to an urban site closer to the

town centre that can accommodate 92 children without generating such a change in the existing setting.

The subject site is identified as E4 zoned land in Draft Central Coast LEP mapping. It is noted that centre based childcare facilities are currently prohibited in E4 zoned land in the Gosford LEP. This indicates that the former Gosford Council did identify E4 zoned land as unsuitable for centre based childcare.

Whilst the Draft Central Coast LEP identifies centre based childcare as permissible with consent in the E4 zone, recent Council communications indicate that review of inconsistent permissible uses between Wyong and Gosford LEP's will be deferred until council finalises a Local Strategic Planning Statement. Accordingly, there is no certainty that draft permissible land uses will be implemented in the consolidated LEP and further review will be undertaken to ensure the process will not be characterised by a blanket implementation of the most flexible controls of each zone. Note this was confirmed in comments made by Mayor Smith in March 2020.

Given that 7(c2) is a redundant zone that requires integration of properties to an 'E' category, it would be entirely irresponsible of Council to overlook the review process that is being undertaken to iron out flaws in the consolidated LEP land use matrix. It is the responsibility of council to take into account the contents of draft planning legislation and where the contents of which are under internal review, and as described by the Mayor, there should be mechanisms in place to stop contentious zoning related developments from impacting the amenity and livelihoods of surrounding residents.

### **Deferred Matters**

Properties shown in red are currently zoned as deferred matter under the Gosford IDO. Forming part of the Environmental Zone and Urban Edge Review, we note that the following objectives were identified by Council to guide this process:

- *Retain high environmental value lands for protection and conservation;*
- *Contain urban sprawl to reduce land use conflicts in environmentally sensitive areas;*
- *Identify rural residential or equivalent lands to conserve environmental lifestyles; and*
- *Promote urban development within town centres and transit corridors to encourage viable communities where services are prevalent and accessible.*

The proposed childcare centre, on-site parking and petting zoo has the potential to be used as a commercial business on weekends and is inconsistent with the objectives of the review as follows:

- The development will detrimentally impact the high environmental value of 7a and 7c2 zoned properties that should reasonably appreciate added protection from Council and commercial/ acoustic/ visual impacts;
- Although permissible in the zone, the proposal is attempting to commercialise a zone that was intended to be protected for its environmental significance. The

slippery slope argument is raised should Council support this proposal - what will developers be proposing in conservation and protection areas next?

- The proposal very much equates to urban development, with 92 children and vehicle movement in excess of 70 at peak hour daily better suited within town centres where existing roads, infrastructure and services can accommodate this scale of premises.

In essence, Council are currently uncertain how to approach rezoning of the deferred matters. The properties in red have been identified for their environmental protection requirements; however this proposal is to achieve exactly what the council does not want to occur: development potentially impacting environmental lands without acknowledgement of the comprehensive review that has dragged on for the last 5 years. To approve a development that can impact these properties without acknowledgement of the Urban Edge Review and the impending zoning changes is highly unreasonable.

### **Acoustic Impact**

The Noise Assessment, prepared by Spectrum Acoustics and dated March 2020, has been reviewed and a number of concerns are raised for comment by Council. Whilst acoustic impacts have been identified, assessed and potentially mitigated through recommendations for surrounding residential zoned properties in the south and south west, the *Project site, receivers and noise logger location map* (refer Figure 2 below) confirms that properties to the north, zoned for environmental protection/ conservation and located within distinct valley topography, have been discounted for acoustic assessment. **Note** red arrows have been inserted in the directions that will suffer from acoustic impact without any justification or assessment from the proponent's acoustic engineers.

The topography of the proposed childcare centre site slopes quite significantly from south to north, in effect, providing an amphitheatre setting where acoustic impacts are magnified as sound travels down the embankment and into the valley toward properties in the north.

In the absence of commercial development controls in the Gosford DCP, it is the responsibility of Council to ensure that development proposals for this type of development will not adversely impact the character and existing and desired amenity of surrounding development. The proponent has failed to assess the impact of noise on properties within the valley environment to the north, noting that topography and existing environmental significance of these sites renders acoustic impacts even more detrimental to enjoyment and use of these properties and future development potential.

These properties to the north will be adversely impacted by acoustic noise to a level currently unknown by Council. The Noise Assessment does not adequately review the surrounding environment, nor does it provide any acoustic measures in the north to mitigate unacceptable acoustic noise within the valley. It is highly unreasonable that Council could support a development that will jeopardise an area of Kincumber that is arguably home to some of the most valuable biodiversity in the immediate locality.

As neighbouring property owners, we feel that amendments to the Noise Assessment should be requested with comprehensive justification and/ or site-specific assessment that projected acoustic impacts associated with a 92 student childcare centre will not generate significant amenity and property value loss to important ecologically zoned properties in the north and north west. It is expected that the valley setting be taken into account when this is undertaken, given we can hear the ocean regularly from our properties due to the unique topography and channelling of sound up the valley.



**Figure 1. Project site, receivers and noise logger location.**

**Figure 2: Extract from Noise Assessment (Spectrum Acoustics, 2020)**

### **Traffic Impact and Safety**

The Traffic Assessment indicates that existing traffic volumes at Brennan Avenue / Avoca Drive intersection at peak hours (5 vehicle movements) will be increased to 241 vehicle movements. The time frames used for predicted traffic generation are admittedly a little longer than those surveyed, however the vehicle use of Brennan Avenue will increase by approximately 236 or a 4720% on the existing. This is a considerable impact to the established amenity of this street and one that needs to be reviewed in the context of pedestrian safety, need for future infrastructure upgrades and acoustic impacts associated with vehicle noise.

Whilst properties to the north won't be directly impacted by associated traffic impacts, residents sympathise with the property owners of Brennan Avenue who have regularly witnessed car accidents at the intersection with Avoca Drive due to poor sightlines both east and west bound, speeding drivers and the impact of cars turning into Brennan Avenue in the south. Unavoidable queuing on Avoca Drive (drivers travelling west bound and turning right across traffic) will generate safety impacts for drivers using the road in both directions.

Whilst it is documented that SIDRA modelling renders the proposal satisfactory, the TIA fails to address important crash data and safety in suitable capacity. It is requested that the appropriate Council officer review this intersection at peak times to understand how this

development could impact lives. It is further requested that the proponent be required to address crash data within an amended TIA and justify how the proposal will not further contribute to the incidence of vehicle crashes at this intersection. It is expected that objectors be afforded the opportunity to review any amended reports within a secondary notification period.

Local property owners are of the opinion that character is not just defined by the visual aesthetics of a neighbourhood, but also by how the area is able to be used and whether children can safely play in the street as they have for so many years. Residents of Brennan Avenue deserve to enjoy reasonable use of their street for residential living and we are of the opinion that the increase in vehicle movements, as described by traffic engineers in the submitted report, will unreasonably impact their ability to do so.

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The proposed development is not compatible with surrounding 7(c2) zoned land and given Council are still unsure as to the true environmental value of these surrounding properties, approving this commercial development would be setting a concerning precedent that errs on the side of developers. Centre based childcare development is prohibited in E4 pursuant to the Gosford LEP. Whilst the draft Central Coast LEP controls identify permissibility in the E4 zone, the draft land use zoning review is currently deferred whilst Council undertake preparation of a Local Strategic Planning Statement. It is therefore quite possible that inconsistencies in Wyong v Gosford land use permissibility will be addressed and the Mayor has indicated that changes may be expected.

The submitted Statement of Environmental Effects focuses entirely on mitigation of amenity impacts to residential zoned properties to the east and west. The properties to the north, north west and east and zoned for environmental conservation and protection, should be acknowledged by Council during the assessment process. The potential impact to property prices is entirely unknown however it's clear cut that the noise associated with 92 children echoing into the valley will generate undesirable impacts that could be better accommodated in an urban setting. This proposal will place a hand brake on any plans that property owners may have to utilise their allotments in accordance with suitable environmental land uses. We therefore strongly object to Council providing any support for a commercial development that will completely jeopardise the existing levels of rural residential amenity enjoyed by residents of the properties to the north and north west.

We kindly ask that the DA assessment officer take a drive along Brennan Avenue, Kerns Road, Berong Road and Parkers Road to get an idea of the natural rainforest and peace and quiet that we have a right to continue enjoying.

Kind regards,

Kincumber residents.