

[REDACTED]

Dear Infrastructure Victoria,

I note in The Age today the article titled: *Push for 30km/h speed limit on all local streets to improve safety.*

The opening paragraph reads: *Local speed limits should be slashed to 30 km/h in areas frequented by children before expanding to suburban streets statewide to increase pedestrian safety...'*

[REDACTED] Although the address of the centre is on Nepean Hwy [REDACTED] where the speed limit is 80 km/h the actual centre itself is separated from the Nepean highway by a service lane.

In light of the [tragedy at Riddells Creek](#) I requested that WorkSafe conduct an independent inspection of the centre. Please find the report and improvement notice obtained under Freedom of Information.

I'm pleased to say that the centre has since complied with the inspection and improvement notice and recently installed safety bollards protecting children from the risk of serious injury from out of control vehicles from the service lane.

My submission to Infrastructure Victoria is two fold:

1. To reduce the speed limit on roads adjacent to Early Learning Childcare centres, [REDACTED]
2. To determine if safety bollards need to be installed on the perimeter of any other childcare centres around Victoria to protect children from the risk of serious injury from out of control vehicles

I am currently conducting my own survey of childcare centres in my immediate area as I am deeply troubled by the fact that a single centre could fail a basic WorkSafe inspection. I am aiming to provide this report to my local member of Parliament Nick Staikos for his perusal and potential escalation.

Best regards,

[REDACTED]

**URGENT**

11 December 2024

WorkSafe Victoria  
Att: IROI Team  
PO Box 279  
Geelong, Vic, 3220

**Ref. ENQ-00523381**

**Request for urgent release of Improvement notice issued to** [REDACTED]  
[REDACTED]

Dear WorkSafe Victoria,

Further to my phone call from your inspector today, I request the urgent release of the improvement notice that was issued to the workplace that the inspector attended.

[REDACTED] I urgently require details of the improvement notice that was issued to the centre.

Please provide this as soon as possible [REDACTED]  
[REDACTED]

(12 December 2024).

Best regards,

[REDACTED]

# Inspection report



## Issued to

Legal name:	[REDACTED]
ACN:	[REDACTED]
ABN:	[REDACTED]
Legal address:	[REDACTED]
Person given to:	[REDACTED]
Copy(s) given to:	[REDACTED]
Service method:	Email
Email:	[REDACTED]

## Entry details

I entered this place to respond to a request for an inspector to deal with an alleged health and safety issue

**Date and time of entry:** 02/12/2024 10:00 AM      **Date and time of departure:** 02/12/2024 10:45 AM

**Interaction address:** [REDACTED]

## Inspector(s) findings

### Health and safety concern

I attended the workplace to follow up on a health and safety concern that was notified to the WorkSafe Advisory Service.

The concern raised can be summarised as follows:

- there are concerns regarding a lack of fencing or barricading between the centre and the highway
- bollards have been placed on the nature strip adjacent to the workplace to stop cars from parking in this area
- there are delivery drivers that park in this area and there is concern that an incident could occur as there is only glass windows separating vehicle traffic from the children's play area

On entry to the workplace I met with [REDACTED] and introduced myself as an appointed inspector with WorkSafe showing my identification card.

I was informed that the workplace is an early learning centre that caters to up to [REDACTED] enrolled children, and that there are approximately [REDACTED] employees at the workplace.

Later during the inspection, I also met with [REDACTED]

I made inquiries into the health and safety concerns raised where I was informed that the workplace is aware of the issue, and has reported it with local city Council.

Noted by inspector : [REDACTED] Smith

**Inadequate barriers - Children's playground**

I observed a risk to children of the early learning centre arising from a lack of barrier or impact protection installed to the perimeter of the playground and driveway areas, therefore a notice is issued.

Noted by inspector : [REDACTED] Smith

WS-92188 : Improvement Notice

**Elected HSR and consultation arrangements, HSRSO's**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Guidance may be obtained from:

Employee representation: A comprehensive guide to part 7 of the OHS Act 2004

<https://www.worksafe.vic.gov.au/resources/employee-representation-comprehensive-guide-part-7-ohs-act-2004>

Health and Safety Representatives Support Officers:

HSRSO@worksafe.vic.gov.au

WorkSafe's Consultation web page (including videos):

<https://www.worksafe.vic.gov.au/consultation>

Noted by inspector : [REDACTED] Smith

**Inspector(s) information**

**Inspector:** [REDACTED] Smith

**Phone:** [REDACTED]

**Email:** [REDACTED]

## Summary of notices issued

Notice number	Notice type	Topic	Compliance date
██████████	Improvement	Inadequate barriers - Children's playground	17/01/2025 09:30 AM

## Legal power(s) exercised

The following legal powers were exercised during this inspection:

ACT: Occupational Health and Safety Act 2004		
Action	Section Description	Used By
Enter workplace	Under section 98(1) of the Occupational Health and Safety Act 2004, the workplace was entered during working hours.	██████████ Smith
Inspect, examine and make enquiries (including documents)	Under section 99(a) & (b) of the Occupational Health and Safety Act 2004, things were inspected, examined and/or enquiries were made.	██████████ Smith
Bring equipment and materials that may be required	Under section 99(c) of the Occupational Health and Safety Act 2004, equipment and materials were brought to the place	██████████ Smith
Take photos	Under section 99(f) of the Occupational Health and Safety Act 2004, photographs were taken during this visit.	██████████ Smith

If this report states that the inspector has taken photographs, made sketches, made audio recordings, or made video recordings during this visit, they will be available for inspection at 37 Dunlop Road Mulgrave VIC 3170 Australia

Please note that where there are multiple duty holders at a site, the powers exercised during an inspection focus on the workplace / interaction and may not specifically apply to you or the duty holder that you represent. To clarify or seek further information, speak to the inspector.

## Internal review of certain inspector decisions

You, a person acting on your behalf or another eligible person (an applicant) may apply to have the decision made by an inspector during this visit (reviewable decision) internally reviewed by WorkSafe Victoria's Internal Review Unit (IRU) within 14 days after the day on which an applicant first becomes aware of the decision. If an application for internal review is not made within this timeframe, an applicant may request that the time limit for lodging an internal review application be extended, which IRU will allow or deny.

The Internal Review Unit must conduct the internal review within 7 or 14 days depending on the legislated time frame for the type of reviewable decision. If IRU does not notify you of the internal review decision within the required time frame, WorkSafe is taken to have made a decision to affirm the reviewable decision. Not all decisions can be internally reviewed and you must be an eligible person in order to seek internal review of a reviewable decision.

Applications must be completed using WorkSafe's internal review form:

- **online** (visit [www.worksafe.vic.gov.au/request-review-ohs-inspector-decision](http://www.worksafe.vic.gov.au/request-review-ohs-inspector-decision)); or
- **download the form** (visit [www.worksafe.vic.gov.au/resources/internal-review-ohs-inspectors-decision-application-form](http://www.worksafe.vic.gov.au/resources/internal-review-ohs-inspectors-decision-application-form))

and submit to WorkSafe Victoria by email ([internalreviewunit@worksafe.vic.gov.au](mailto:internalreviewunit@worksafe.vic.gov.au)), or post to *Internal Review Unit, WorkSafe Victoria, PO Box 279, Geelong VIC 3220*

When lodging an application for internal review, an applicant may also request that IRU stay (stop) the operation of the reviewable decision, until the outcome of the internal review application. IRU must make a decision to grant or deny a stay (with or without conditions) and communicate that decision within 24-hours of receiving the stay request, otherwise WorkSafe is deemed to have granted a stay of the reviewable decision. If no request for a stay is made by an applicant or if the stay is requested and it is denied, the reviewable decision remains in effect.

If you or the applicant are dissatisfied with an IRU decision, you/ they can apply to the Victorian Civil and Administrative Tribunal for an external review within 14 days of first becoming aware of a decision:

- made by the IRU; or
- that is deemed to have been affirmed by IRU because it was not made within the required time frame

The IRU can be contacted by telephone (03) 4243 7060 or email [internalreviewunit@worksafe.vic.gov.au](mailto:internalreviewunit@worksafe.vic.gov.au)

## Offence

The following Acts, including any regulations made under them carry varying offences such as failure to meet duties and obligations, non compliance with a notice or direction issued or made by an inspector and hindering or obstructing an inspector in the exercise of their powers:

- *Occupational Health and Safety Act 2004*
- *Dangerous Goods Act 1985*

- *Equipment (Public Safety) Act 1994*
- *Public Health and Wellbeing Act 2008*

For specific details about offences and subsequent penalties refer to the specific Act or regulation.

## Feedback

If you want to contact WorkSafe in relation to this entry by our Inspector other than for Internal Review purposes (see above), please use the following guide:

- to clarify any matter that is covered by the inspection report and any associated notices or directions contact the issuing Inspector, whose name and contact details appear above in the Inspector Information section in this Inspection Report
- write to WorkSafe Victoria, Advisory Service, PO Box 279, Geelong 3220.

For general enquiries contact our Advisory Service on 1800 136 089 (toll free) otherwise email [info@worksafe.vic.gov.au](mailto:info@worksafe.vic.gov.au)

## Privacy collection statement

WorkSafe collects, uses, discloses and stores information in accordance with the *Occupational Health and Safety Act 2004*, other legislation administered by WorkSafe and all applicable privacy laws. This includes information collected by WorkSafe inspectors or authorised officers. WorkSafe may also use your protected personal information for research purposes. Research by, or on behalf of WorkSafe, is your protected personal information for research purposes. Research by, or on behalf of WorkSafe, is carried out in compliance with the Privacy Act. Note that non-compliance with privacy laws is permissible to the extent that those laws conflict with other legislative provisions allowing or requiring the collection of information. Note also that privacy laws do not apply to the collection of information by WorkSafe to the extent that it is exercising its law enforcement functions and non-compliance with privacy legislation is deemed necessary to fulfil those functions.

WorkSafe's Privacy Policy is on our website at [worksafe.vic.gov.au/resources/worksafe-privacy-policy](http://worksafe.vic.gov.au/resources/worksafe-privacy-policy).

## Privacy and confidentiality notice

The information contained in this document is intended for the named recipient(s) only and may contain privileged and confidential information. Any unauthorised use (including copying, distribution and disclosure) of this document or its contents is expressly prohibited. If you have received this document in error, please notify the sender immediately and delete it or securely destroy as appropriate. Views expressed in this message are those of the sender, and are not necessarily the views of WorkSafe.

## Further information

Information to help inform you about your legal responsibilities and to help make your premises/ site safer is available at [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au) or by calling (03) 9641 1444 or 1800 136 089.

[end of report]

Occupational Health and Safety Act 2004  
**Improvement notice**



[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

**Issued to**

<b>Date of issue</b>	02/12/2024
<b>Issued by:</b>	[Redacted] Smith, an inspector appointed under the Occupational Health and Safety Act 2004
<b>Notice issued to:</b>	[Redacted] [Redacted]
<b>ACN:</b>	[Redacted]
<b>ABN:</b>	[Redacted]
<b>Service method:</b>	Email
<b>Email:</b>	[Redacted]
<b>Notice given to:</b>	[Redacted]

**Contravention details**

**Provision of the Act and / or Regulations that is being contravened:**

I reasonably believe that the named Person is in contravention of Section 23 of the Occupational Health and Safety Act 2004

**Basis for this belief:**

I reasonably believe that the employer has failed to control the risk associated with vehicles entering the driveway and underground carpark area, by not ensuring adequate impact protection for the children in the playground area, so far as is reasonably practicable.

This was evidenced during my inspection where I observed and was informed of the following:

- the workplace is an early learning Centre with up to [Redacted] enrolled children and approximately [Redacted] staff
- at the front area of the centre is a dedicated passive play space for the enrolled children to use

- the play area is fenced by brick wall and glass panels
- the glass panels span from the front corner of the playground at right angles and for approximately three (3) metres to either side
- the glass panels are installed at ground level to approximately two (2) metres high and directly adjacent to the driveway area
- the driveway leads to an underground car park of approximately 22 spaces that is used frequently by staff and families for parking and centre access
- there is no other impact protection installed to the corner of the playground and two (2) other sections of street facing fence
- the workplace is accessible via a service road which is directly adjacent to the four (4) south-eastbound lanes of the Nepean Highway
- the playground side of the fence is subset to the street level and in areas is approximately 500mm lower than footpath level
- the playground area extends the length of the footpath from the driveway to the front entrance
- children are actively using the playground, including near the glass panels, which is accessible and utilised for passive play and activities on a daily basis
- the centre operates Monday to Friday between 7:00am and 6:30pm
- there are plastic T-top bollards installed to the front of the workplace, extending the length of the grassed nature strip in front of the play area
- the bollards are installed to discourage vehicle parking and stopping in this area due to concerns at the proximity to the playground and the lack of impact protection installed
- families and contractors, such as delivery drivers continue to use the area directly in front of the workplace and playground, removing the bollards to drive onto the nature strip area

Based on my findings during inspection, I have formed the following belief:

- the playground is designed in such a way that the driveway and carpark entrance is directly adjacent to the children's playground area
- there is no separation between the roadway and the glass panels that lead directly to the playground below and the glass is installed to the ground (footpath level)
- the glass panels meet at a corner point that does not include an upright pillar or support that offers any protection from impact
- reliance on glass panels to protect children from vehicle impact in the playground area is inadequate
- installation of impact protection to a higher order is reasonably practicable

**Risk summary:**

I reasonably believe that children of the early learning centre may be exposed to risks arising from vehicles entering the driveway and underground carpark where there is a lack of impact protection installed to the perimeter of the playground area which, should a vehicle become uncontrolled, could result in a collision and serious injury to children in the vicinity.

**Inspector's directions**

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**Directions to remedy the contravention:**

██ ensure, so far as is reasonably practicable, that persons other than employees of the employer are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer.

Compliance may be achieved by but not limited to:

Engaging a suitably qualified person (such as a structural engineer) to install impact protection to the inside perimeter area of the early learning centre playground that is directly adjacent to the driveway access and street, where protection is not already provided by brick fence

Further guidance may be found in the following:

- Building Code
- Australian Standards including AS/NZS 2890.1:2004 Parking facilities- Off-street car parking

This contravention must be remedied by **9:30 AM** on **17/01/2025**

## Review and offence provisions

### Notice issued under

This notice is issued under section 111 of the *Occupational Health and Safety Act 2004*. This notice requires the person (which can mean a body corporate) to whom it is issued to remedy a contravention of the Act or its Regulations. Section 115(2) places obligations on the person to who an improvement notice is issued. If that person is an employee, he or she must give a copy of the notice to the employer. Failure to do so may result in a penalty.

Otherwise, and for an employer given a copy of a notice issued to an employee, the person must:

- \* bring the notice to the attention of all persons whose work is affected by the notice,
- \* give a copy to each health and safety representative who represents employees whose work is affected by the notice; and
- \* display a copy of the notice in a prominent place at or near the workplace or part of the workplace where the affected work is being performed.

### Internal review rights

You, a person acting on your behalf or another eligible person (an applicant), may apply to have an inspector's decision to issue an improvement notice internally reviewed by WorkSafe Victoria's Internal Review Unit (IRU), within 14 days after the day on which an applicant first becomes aware of the inspector's decision. If an application for internal review is not made within this timeframe, an applicant may request that the time limit for lodging an internal review application be extended, which IRU will allow or deny. Applications must be completed using WorkSafe's internal review form:

- **online** (visit [www.worksafe.vic.gov.au/request-review-ohs-inspector-decision](http://www.worksafe.vic.gov.au/request-review-ohs-inspector-decision) or if your improvement notice relates to a return to work matter visit [www.worksafe.vic.gov.au/review-worksafe-return-work-inspectors-decision](http://www.worksafe.vic.gov.au/review-worksafe-return-work-inspectors-decision)); or
- **download the form** (visit [www.worksafe.vic.gov.au/resources/internal-review-ohs-inspectors-decision-application-form](http://www.worksafe.vic.gov.au/resources/internal-review-ohs-inspectors-decision-application-form) or if your improvement notice relates to a return to work matter visit <https://www.worksafe.vic.gov.au/resources/internal-review-application-form-request-review-return-work-inspector-decision>)

and submit to WorkSafe Victoria by email ([internalreviewunit@worksafe.vic.gov.au](mailto:internalreviewunit@worksafe.vic.gov.au)), or post to *Internal Review Unit, WorkSafe Victoria, PO Box 279, Geelong VIC 3220*

When lodging an application for internal review, an applicant may also request that IRU stay (stop) the operation of the improvement notice, until the outcome of the internal review application. IRU must make a decision to grant or deny a stay (with or without conditions) and communicate that decision within 24-hours of receiving the stay request, otherwise WorkSafe is deemed to have granted a stay of the improvement notice. If no request for a stay is made by an applicant or if the stay is requested and it is denied, the improvement notice remains in effect.

The authority may request in writing that an applicant provides further information in relation to an application. The request will specify a period (not exceeding 7 days) during which the applicant may provide the requested information. If the Authority requests further information, the period (7 days) referred to in section 128(4) of the *Occupational Health and Safety Act 2004* to provide written notice to the applicant, is suspended until the earlier of the following:

- (a) the applicant has provided all the information requested; or
- (b) the period specified by the Authority in its most recent request has expired.

If the requested information is not provided within the specified period, the Authority may make the decision on the application without the information.

The IRU must make and communicate a decision on an internal review application within 14 days after a valid application is made. If the IRU fails to make a decision within this time-frame, it is deemed to have affirmed the decision of the inspector to issue the improvement notice. If an applicant is dissatisfied with an IRU decision, an application may be made to the Victorian Civil and Administrative Tribunal for an external review within 14 days after first becoming aware of the decision:

- made by the IRU; or

- that is deemed to have been made by IRU because it was not made within the required time frame.

The IRU can be contacted by telephone (03) 4243 7060 or email [internalreviewunit@worksafe.vic.gov.au](mailto:internalreviewunit@worksafe.vic.gov.au)

#### **Offence**

A person issued with an improvement notice that does not comply and thereby contravenes the notice shall be guilty of an indictable offence against the Act. In the case of a natural person, the indictable offence carries a penalty of not more than **\$98,795.00**. In the case of a body corporate, the indictable offence carries a penalty of not more than **\$493,975.00**.

#### **Privacy and confidentiality notice**

The information contained in this document may contain privileged and confidential information and is not to be used (including copied, distributed and disclosed) for any other purpose than the prescribed purpose. All use of the information contained in this document must only be used in a manner that is consistent with the objects and purposes of Victorian occupational health and safety acts and regulations. If you have received this document in error, please notify the sender immediately and delete it or securely destroy as appropriate. Views expressed in this message are those of the sender, and are not necessarily the views of WorkSafe.

#### **Notes**

The issue, variation or cancellation of this notice does not affect any proceedings for an offence against this Act or the regulations in connection with any matter in respect of which the notice was issued.

Compliance with this notice does not indicate that the person to whom it is issued complies with all health and safety requirements, nor does it affect the continuing obligation to ensure workplace health and safety.

[end of notice]