

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA20/0581
Proposed development:	Construction of 110 Place Child Care Centre & Associated Civil Works
Property address:	72 Mulgoa Road, JAMISONTOWN NSW 2750
Property description:	Lot 200 DP 1230338
Date received:	15 September 2020
Assessing officer	Sufyan Nguyen
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone B5 Business Development - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the erection of a 110 placement child care centre and associated civil works at 72 Mulgoa Road, Penrith. The subject site is zoned B5 Business Development and the proposal is defined as centre-based child care facility under Penrith Local Environmental Plan 2010, which is permissible with consent.

The key issues identified and addressed as part of the assessment of the proposal were in regard to the following matters:

- Bulk and scale of the proposal and visual impacts on the streetscape;
- Potential for land contamination due to an existing capping layer on-site;
- Noise and amenity impacts;
- Servicing of the site in terms of waste management and stormwater treatment measures;
- Off-street parking; and
- Landscape design.

The proposal was advertised and notified to adjoining and nearby properties and publicly exhibited for a period of 14 days in accordance with Penrith Development Control Plan 2014 (DCP). Two public submissions were received during this notification period, however, the matters raised are considered resolved, noting that correspondence was provided to the objectors on April 2020 addressing concerns raised.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) has been undertaken and the application is recommended for approval, subject to recommended consent conditions.

Site & Surrounds

The subject site is known at HomeCo Penrith, 72 Mulgoa Road, Jamisontown and is legally described as Lot 200 DP 1230338. The site has land area of 3.015 Ha and is overall rectangular in shape, with a 147.17m (north-western facing) frontage to Mulgoa Road and a 160.94m (south-east facing) frontage to Regentville Road. The main access to the car park is via a traffic signalised intersection off Mulgoa Road with an L-shaped access handle) and a secondary vehicular access point from Regentville Road. Majority of the site is affected by overland flooding flows, except adjacent to the northern, southern and eastern corner sections. The site contains a number of easements adjacent to south-western boundary, including a drainage easement and right of carriage easement, etc.

Existing development on the site consists of HomeCo Penrith, which accommodates a number of bulky goods premises/retail outlets, in addition to an ancillary café and has a gross floor area of 13,517m² and 365 car parking spaces. Immediately adjacent to the south of the site are four bulky goods tenancies, with 2,736m² of approved GFA and 95 car parking spaces that were part of the approval of the previous Masters Home Improvements store.

The site is located approximately 2km south of Penrith City Centre. Land to the north and south is a mixture of bulky goods and similar commercial land uses including The Good Guys, car dealerships and home building supplies businesses. Development to the east of the site comprises of a range of industrial land uses including construction material supplies, machinery supplies and car repairers.

To the west of the site, opposite Mulgoa Road is a low-density residential area, which is generally characterised by single detached dwellings and are principally accessed from Mulgoa Road via Willoring Crescent, Stuart Street and Jamison Road.

Proposal

The applicant seeks approval for the erection of a centre-based child care facility with a capacity of 110 child care placements at 72 Mulgoa Road, Jamisontown.

The proposal comprises of the following aspects:

- Overall building footprint (including kerbs) of 1,751m²;
- Gross floor area (GFA) of 1,540.72m²;
- An upside down U-shape design, semi-attached to the southern-most section of the south-west elevation of the existing Home Consortium Penrith building;
- Various pitched roofs and gables with an overall ridgeline height, similar to the existing building (~8.2m above natural ground level);
- A mix of timber cladding, masonry, rendered and painted façades and extensive glazing;
- Cladding/colorbond roofing;
- Acrylic (clear) acoustic panelling;
- Outdoor play area (GFA of 779.27m²) within the U-shaped section and a reading amphitheatre area;
- Segregated child care rooms, as per age groups; 0-1 year old (GFA of 52.9m²), 1-2 years old (GFA of 52.24m²), 2-3 years old (GFA of 87.11m² and atelier GFA of 12.83m²), 3-4 years old (GFA of 66.68m²), 4-5 years old (GFA of 75.4m² and atelier GFA of 17.61m²), with associated cot rooms, bottle prep room, bag storage areas, craft/bench rooms with sinks, nappy change areas, bed storage/general storage, amenities and services;
- Reception room, manager's office, commercial kitchen, parent room, toilets, staff kitchen, planning room, services room and external storage room;
- Five business identification façade signs - North-west elevation fronting Mulgoa Road includes a wall sign (lettering) on the top right hand corner with dimensions of 2.37m (height) x 5.62m (width) and a wall sign (silhouette) on the bottom left hand corner with dimensions of 2.1m (height) x 1.49m (width). The south-east elevation fronting Regentville Road includes a wall sign (silhouette) on the top left hand corner with dimensions of 2.755m (height) x 1.96m (width) and a wall sign (lettering) on the middle lower section with dimensions of 0.9m (height) x 3.7m (width);
- Hours of operation from 6:30am-6:30pm, Monday-Friday;
- 44 child care placements for 0-2 years old, 26 places for 2-3 years old, 40 places for 3-6 years old;
- 22 staff; and
- Loss of 69 off-street parking spaces from the existing dedicated at grade car park.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Act, and having regard to those matters, the following issues have been identified for further consideration.

• Section 7.12 - Developer Contributions

The development proposal is subject to Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

Type of Contribution	Cost of Works	Rate	Amount
Section 7.12 Fixed Development Consent Levy	\$2,548,979.40	1.00%	\$25,490.00
Total Contribution			\$25,490.00

A condition of consent requiring the payment of this development contribution, prior to the issue of a Construction Certificate, has been recommended.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Part 3 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 details the development standards that are applicable to centre-based child care facilities (the Centre), including the following:

Clause 22 Centre-based child care facility—concurrence of Regulatory Authority required for certain development

Concurrence from the NSW Department of Education is required if the development does not comply with the minimum unencumbered space requirements of 3.25m² of indoor space and 7m² of outdoor space per child under Clauses 107 and 108 of the Education and Care Services National Regulation.

In this regard, the proposed total of 110 child care placements to be accommodated at the Centre at any one time requires a minimum indoor space of 357.5m² and a minimum outdoor space of 770m².

The figures proposed by the applicant are as follows:

- Total unencumbered indoor space - proposed 364.63m² (3.31m² of indoor space per child).
- Total outdoor unencumbered outdoor space - proposed 775.53m² (7.05m² of outdoor space per child), including sufficient outdoor covered areas (five shade sails).

The proposal satisfies the minimum space requirements of the Education and Care Services National Regulation.

Clause 23 Centre-based child care facility—matters for consideration by consent authorities

The proposal has been assessed against the assessment framework of the Child Care Planning Guideline

(2017) published by the NSW Department of Planning, Industry and Environment. The following comments made in relation to the key aspects of the development proposal are as follows:

Part	Objective	Comment
<p>3.1 Site selection and location</p>	<p>C1 To ensure that appropriate zone considerations are assessed when selecting a site</p>	<p>The Centre is situated within an B5 Business Development zone and adjoins a specialised bulky goods premises (HomeCo Penrith). Opposite Mulgoa Road to the west and further to the north of the site is an established R2 Low Density Residential zone.</p> <p>The proposal is considered to be compatible with the operation of the nature of these zones, noting that a noise impact assessment (NIA) was submitted at the request of Council, which demonstrates that the proposal is compliant with the established noise criteria, as endorsed by Council's Environmental Management Unit and detailed below in Objectives C2 and C23- C24.</p> <p>The existing adjoining building remains unaltered and the dedicated car park will lose 69 parking spaces due to the building footprint. Despite, the loss of parking spaces, the site will provide a surplus of 25 off-street parking spaces in accordance with the DCP parking rates, which ensures local traffic and parking impacts in the immediate surrounding area are minimal.</p>

	<p>C2 To ensure that the site selected for a proposed child care facility is suitable for the use</p>	<p>It is noted that the site is affected by local overland flooding, however an assessment of flooding impacts was previously carried out with the original proposal for the Masters Home improvement building (now HomeCo Penrith) and is considered to be of minimal flooding risk. Further, Council's Development Engineer reviewed this flood impact assessment and raised no objections to the Centre, subject to recommended consent conditions in relation to flooding controls and construction requirements. It is also noted that the site is not subject to any other natural hazards and land contamination matters associated with the previous petrol station use for the site is considered resolved.</p> <p>The Centre is compatible with the context of the site, with appropriate separation distances between the Mulgoa Road frontage and adjoining and nearby properties.</p> <p>The site provides adequate off-street parking and it is not in proximity to any known incompatible social activities.</p>
	<p>C3 To ensure that sites for child care facilities are appropriately located</p>	<p>The Centre is situated in the core of a business hub and is in proximity to residential zones. It has access to bus stops along Mulgoa Road with pedestrian a footpath network.</p>
	<p>C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards</p>	<p>The Centre is not located nearby any known hazardous facilities, including heavy or hazardous industries, transfer depots, landfill sites, LPG tanks or service stations, water cooling/warming systems or odour generating land uses.</p>
<p>3.2 Local character, streetscape and public domain interface</p>	<p>C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape</p>	<p>The proposed semi-attached building design (as amended) is considered to be compatible with the existing building and the surrounding buildings, noting the traditional architectural design elements, such as pitched roofs, gables and extensive glazing. The building design will be of minimal impact on the streetscape.</p>

	C6 - C8 To ensure clear delineation between the child care facility and public spaces	The existing nature strips maintains appropriate separation distances for the Centre and existing pedestrian entrances and vehicular access are maintained from the dedicated car parking area on the site, which are considered satisfactory, in terms of vehicular circulation and visitor access.
	C9 - C10 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	The Centre does not include any front fencing. Fencing is limited to the perimeter of the Centre.
3.3 Building orientation, envelope and design	C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade	The proposal provides adequate visual interest to the streetscape. The building incorporates extensive fenestration to maximise solar access and the attached existing building and shade sails provide sufficient shading.
	C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised	The building height was exaggerated and provided with large surrounding walls in response to Council's request to ensure that the scale is more aligned with the existing building, noting that existing building setbacks remains unaltered. The Centre is considered to be of minimal impact on the visual quality of the streetscape.
	C13-14 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context	The Centre maintains an adequate setback from the street and is slightly setback behind the existing building.
	C15 To ensure that the built form, articulation and scale of development relates to its context and buildings are well designed to contribute to an area's character.	The subject site is situated amongst an established B5 zone, which accommodates a variety of large buildings. The Centre is of a modest scale relative to the existing building on-site and therefore is appropriately sized relative to context of the local character.
	C16 To ensure that buildings are designed to create safe environments for all users	The internal layout configuration and pedestrian pathways provides adequate access and circulation.
	C17 To ensure that childcare facilities are designed to be accessible by all potential users	The key areas of the site and Centre are accessible by wheelchairs and prams.
3.4 Landscaping	C18 - C19 To provide landscape design that contributes to the streetscape and amenity	The proposal does not include any vegetation removal and therefore amenity to the streetscape is maintained.

3.5 Visual and acoustic privacy	C21 To protect the privacy and security of children attending the facility	The Centre provides a secure entry/exit and secure fencing surrounding the outdoor play area. Fenestration is designed such that there will be minimal overlooking. Suitable pathway entrances and adequate tree screening along the street frontage are maintained. These privacy measures will minimise overlooking into the indoor and outdoor spaces and provide security for the children at the Centre.
	C22 To minimise impacts on privacy of adjoining properties	The site is distant from nearby residential properties and therefore does result in any privacy impacts.
	C23 - C24: To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.	The applicant provided a NIA, which concludes that the operation of the Centre can comply with established noise criteria, subject to the implementation of operational noise management measures, as endorsed by Council's Environmental Management Unit, subject to recommended consent conditions.
3.6 Noise and air pollution	C25 - C26 To ensure that outside noise levels on the facility are minimised to acceptable levels	Documentation and modelling submitted with the proposal, demonstrates that acceptable noise levels are achieved in accordance with the relevant guidelines, as endorsed by Council's Environmental Management Unit.
	C27 - 28 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.	<p>The Centre is situated along a main road but is adequately setback, which is considered to be acceptable in terms of air pollution from passing motorists.</p> <p>It is noted that both street frontages surrounds contains several mature trees to improve air quality for the users and visitors of the Centre.</p>
3.7 Hours of operation	C29 - 30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments	The Centre proposed 6:30am-6:30pm, weekdays hours of operation, which is permissible and considered to be appropriate.

3.8 Traffic, parking and pedestrian circulation	C31 & C33 To provide parking that satisfies the needs of users and demand generated by the centre	<p>The site makes provision for 365 parking spaces, including 16 accessible parking spaces. The proposal requires a minimum of 33 car parking spaces in accordance with the DCP, which is satisfactory, noting the loss of 69 parking spaces, as detailed in the Appendix of this report.</p> <p>Further, it is noted that a review of historical aerial photography indicates that the car park is unlikely to be at full capacity during business hours and that bus stops along Mulgoa Road are within reasonable walking distance are available.</p>
	C36 & C38 To provide a safe and connected environment for pedestrians both on and around the site.	<p>The centre maintains a pedestrian pathway from the car parking area and a separate pedestrian pathway from the street, which are considered to be satisfactory.</p>

Applying the National Regulations

The proposal provides adequate external and internal storage space, being a total of 33.57m² of external space (0.305m² per child) and 25.5m of indoor storage space (0.23m² per child). The Centre makes provision for adequate amenities and services, with appropriately sized laundry, toilets, nappy change rooms and administrative offices, etc. The building design and landscaping/outdoor play area provides adequate security, child supervision, solar access and shading. In addition, environmental assessments of the site indicates that the site suitable, subject to remediation and validation of the site during construction and also adherence to long term environmental management plan to ensure the capping layer of the site is not compromised, as detailed in this report, which will be addressed via a recommended consent condition.

Clause 25 Centre-based child care facility - non-discretionary development standards

The non-discretionary development standards which, if complied with, prevent a consent authority from requiring more onerous standards. These matters relate to location, indoor and outdoor space, site area and dimensions and the colour of building materials and shade structures, which as previously indicated in this report are considered compliant.

Clause 26 Centre-based child care facility - development control plans

The SEPP includes provisions in development control plans that cannot be applied to development of child care centres, such as hours of operation, demonstrated need for services, proximity to other facilities, or any matter set out in the *Child Care Planning Guideline*. Council's DCP does contain specific development standards related to the matters described in Clauses 25 and 26, which are rendered obsolete by the function of the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

The State Environmental Planning Policy (Infrastructure) 2007 provides the legislative planning framework for infrastructure delivery and the provision of services across NSW. The development proposal does not trigger any traffic generating thresholds under the SEPP given that the annual average daily traffic volume of Mulgoa Road is less than 20,000 vehicles. It also noted that the additional gross floor area is less than 2,500m² and that the development site is sited distant from the Mulgoa Road frontage and therefore will not be impacted by any future road widening. As such, the proposal does not trigger a referral to Transport for NSW.

In addition, the proposal is of a suitable scale with adequate access provided via a traffic signal intersection off Mulgoa Road and alternative vehicular access via Regentville Road. Therefore, it is not considered likely that the proposal will result in any major impacts to the functionality of Mulgoa Road, noting that the submitted NIA (as amended) demonstrates that relevant noise criteria and amenity is satisfactory.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The subject site is situated outside of the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) Aerotropolis Boundary Map. However, the SEPP WSA contains an Obstacle Limitation Surface Map and Wildlife Buffer Map, whereby the site is identified as being located within the area of these maps.

In consideration of Clause 21 Wildlife hazards of the SEPP WSA, the development type is not identified as a "relevant development", which trigger the requirements for further consideration under Clause 21 and hence, no wildlife poses any risk to the operation of the airport.

In addition, Clause 24 Airspace operations of the SEPP WSA relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The development neither penetrates the prescribed air space, nor is it a controlled activity, therefore does not trigger any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, the subject site was previously used as part of a trucking depot and then part of a fuel depot in the 1980s (both of which extended to the west and north of the site). A detailed site investigation and remedial action plan (RAP) was carried out on-site, including the removal of fuel infrastructure (a number of above ground storage tanks and underground ground storage tanks and associated impacted soils, above ground oil/water separators), bioremediation and/or excavation and off-site disposal of contaminated soils, mechanical service pits, sumps and drains, asphalt bunds and redundant buildings on-site, surficial asbestos fragments and the encapsulation of lead and asbestos impacted fill material beneath a marker layer of white geofabric and capping layer (comprising 200mm of road base substrate and 30mm of asphalt). The Remediation and Validation Report concludes that petroleum impacted soils and the removal of surface asbestos has been remediated to levels suitable for commercial/industrial land use. The Environmental Management Plan (EMP) for the site outlines the ongoing management of the site with respect to the containment cell and outlines the procedures for when breaches of the containment cell arise.

The previous contamination assessments and validation certificates are based on the site being suitable for commercial/industrial land use and compliance with the National Environment Protection (Assessment of Site Contamination) Measure HIL D -Commercial/industrial health based investigation levels. A 'Summary of Contaminated Land Condition' was submitted with the development application, whereby the summary provides a number of recommendations, including the requirement for a soil vapour assessment (SVA) to be carried out. Notwithstanding, the aforementioned contamination assessments/validation are not considered to be adequate to determine if the site is suitable for the proposed use as a child care centre, given that it is a more sensitive land use. In addition, the EMP requires that the EMP be reviewed every five years, which recommends that *"a construction environmental management plan is prepared for the site"* and that *"the document should include an unexpected finds protocol which should detail the controls required should stained, or odorous soil be encountered"*.

As such, the applicant was requested by Council to undertake further contamination assessments and provide a revised EMP and Unexpected Finds Protocol in accordance with the proposed use and to give consideration to the preparation and implementation of an appropriate construction environmental management plan (CEMP) and workplace health and safety measures, including the installation of services, facilities, footings, etc., which may potentially penetrated and/or compromise the contamination capping and consequently expose contaminated land.

Several reports were provided in response, including a SVA, conceptual site model (CSM), CEMP and long-term environmental management plan (LTEMP). The documentation contains detailed investigations, including soil samples and conclude that the site is suitable for the proposal, subject to the implementation of a LTEMP, in addition to the requirement for a CEMP. However, concerns were raised in regard to the potential pathways that may be available during the construction period and once the development is

completed, such as the requirement to provide details of how service infrastructure will be installed, how the slab and footings will be constructed and how landscaping embellishments will be managed, locations of potential penetration of the capping layer and the process for reinstating/reconstructing the cap should it be penetrated during site works, identification of works compounds, stockpile areas and waste areas, etc.

An environmental statement and audit process letter was subsequently provided, summarising that, *"overall the remedial strategy proposed is reasonable based on the site history, the nature and extent of contamination, and the proposed development (no handling of impacted fill material). Should detailed design of the development identify the need to handle impacted fill material, a revision to the CEMP (or preparation of a RAP) will be required"* and that recommended consent conditions should be imposed for any development consent being granted, including that a Site Auditor review the EMP, CSM and CEMP and the preparation of an independent audit assessment letter prior to the issuing of a Construction Certificate. In addition, an Auditor to review the Validation Report and EMP and preparation of a Section A - Site Audit Statement and Site Audit Statement Report prior to the issuing an Occupation Certificate and also compliance with the EMP. It is noted that the concrete slab laid upon the existing site surface with the Centre built above will prevent access to the sub-soil and any areas where the cap has been penetrated for piling will be fully filled by concrete piles to seal it. In regard to the risk of construction workers and intrusive maintenance workers after construction due to the capping layer being only 300mm thick, the risk of this potentially complete pathway is managed via the LTEMP on Council's Section 10.7 certificate and the Section 88b instrument associated with the site, in addition to a site specific LTEMP prepared for the Centre.

In conclusion, the documentation indicates that the site is suitable for its intended proposed development and land use, which has been endorsed by Council's Environmental Management Unit, subject to recommended condition consents. In addition, a recommended consent condition is to be imposed to address any unexpected finds by way of an unexpected finds protocol. Therefore, the site is considered to be suitable for the development and the relevant provisions of SEPP 55 have therefore been satisfied.

State Environmental Planning Policy No 64—Advertising and Signage

The aims of State Environmental Planning Policy No. 64—Advertising and Signage (SEPP 64) are to ensure that any signage visible to a public place or public reserve is to be compatible with the desired amenity and visual character of an area, provide effective communication in suitable locations and be of high quality design and finish.

In this regard, the proposal includes business identification signage in the form of five wall signs, which are both simplistic in design, with a neutral colour scheme and display basic lettering (logo displaying "aurrum kids - Childcare & Preschool" with a child silhouette throwing up some small coloured balls as the letter "i") and also walls signs with only the same child silhouette.

The north-west elevation fronting Mulgoa Road includes a white wall sign (dark blue lettering) on the top right hand corner with dimensions of 2.37m (height) x 5.62m (width) and a wall sign (white child silhouette) on the bottom left hand corner with dimensions of 2.1m (height) x 1.49m (width). The south-east elevation fronting Regentville Road includes a wall sign (white child silhouette) on the top left hand corner with dimensions of 2.755m (height) x 1.96m (width) and a white wall sign (dark blue lettering) on the middle lower section with dimensions of 0.9m (height) x 3.7m (width). The south-west elevation fronting the car park includes a dark blue wall sign (white lettering) on the top left hand corner of the south-eastern section of the façade with dimensions of 2.37m (height) x 5.62m (width).

The site is situated within a business area and is subject to B5 Business Development zoning. The surrounding area accommodates various signage styles which range from small to large scale designs and therefore this variety of design themes will ensure that the proposed signage is compatible with the context of the locality. While so, there is residential housing situated opposite the site along Mulgoa Road, the signage provides effective communication without compromising the visual quality and amenity of the immediately surrounding area.

Under SEPP 64, the proposed signage is broadly defined as signage, which means:

"all signs, notices, devices, representations and advertisements that advertise or promote any goods services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage and

includes:

- (a) Building identification signs, and
- (b) Business identification signs, and
- (c) Advertisements to which Part 3 applies,

but does not include traffic signs or traffic control facilities."

The proposed signage has been assessed against the assessment criteria specified in Schedule 1 of the SEPP, as detailed below.

Criteria	Comments
<p>1 Character of the area</p> <ul style="list-style-type: none"> • <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i> • <i>Is the proposal consistent with a particular theme for outdoor advertising in the area of locality?</i> 	<p>The surrounding B5 Business Development zone accommodates a diverse range of commercial land uses and associated signage including pylon signs. Given that there is existing large style signage and pylon signs in the locality, the signage reflects the character of the area.</p>
<p>2 Special areas</p> <ul style="list-style-type: none"> • <i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i> 	<p>The subject site is nearby residential properties. However, the minor scale and overall design of the proposed signage is not considered to adversely impact on the amenity or visual quality of the locality.</p> <p>Further, the site is not within or in close proximity to any environmentally sensitive areas, heritage areas, natural or other conservation areas, waterways or rural landscapes.</p>
<p>3 Views and vistas</p> <ul style="list-style-type: none"> • <i>Does the proposal obscure or compromise important views?</i> • <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i> • <i>Does the proposal respect the viewing rights of other advertisers?</i> 	<p>The proposed signage does not obstruct any important views or vistas and is not within a skyline view.</p> <p>It is noted that existing wall signage along the south-western facade of the building on the site will be impacted. However, it is considered that there is scope to appropriately relocate the existing wall signage along the south-west elevation of the building without compromising effective business visual communication.</p>
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> • <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i> • <i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i> • <i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i> • <i>Does the proposal screen unsightliness?</i> • <i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i> • <i>Does the proposal require ongoing vegetation management?</i> 	<p>The proposed signage is appropriately sized relative to the site's land area and street frontage.</p> <p>The scale and design of the proposed signage is appropriate for its setting and will not substantially impact on the streetscape, noting that only one or two signs are proposed on each of the three elevations, with appropriate separation distances to reduce overall visual clutter and minimises any adverse impacts on the streetscape.</p> <p>The proposed signage does not require any vegetation management as a result of the proposed signage.</p>

<p>5 Site and building</p> <ul style="list-style-type: none"> • <i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i> • <i>Does the proposal respect important features of the site or building, or both?</i> • <i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i> 	<p>The scale and design of the signage is in proportion to the size of the proposed building and the existing building on the site.</p> <p>The proposed signage is not contrary to its context in the B5 zone and will not result in any unreasonable visual impacts.</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> • <i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i> 	<p>The proposed signage does not incorporate back-lit LED panels.</p> <p>The proposed signage will be installed according to manufacturer and engineering requirements, which will be addressed by a recommended consent condition.</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> • <i>Would illumination result in unacceptable glare?</i> • <i>Would illumination affect the safety for pedestrians, vehicles or aircraft?</i> • <i>Would illumination detract from the amenity of any residence or other form of accommodation?</i> • <i>Can the intensity of the illumination be adjusted, if necessary?</i> • <i>Is the illumination subject to a curfew?</i> 	<p>N/A.</p>
<p>8 Safety</p> <ul style="list-style-type: none"> • <i>Would the proposal reduce the safety for any public road?</i> • <i>Would the proposal reduce the safety for pedestrians or bicyclists?</i> • <i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i> 	<p>The proposed signage is provided a generous front setback and is not considered likely to reduce safety for local traffic or pedestrians.</p>

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—HawkesburyNepean River (No. 2—1997) which aims to protect this river system.

The nature and scope of the development proposal is minor in scale. Subject to recommended conditions of consent in relation to construction management and ongoing stormwater management, the proposal is not considered likely to adversely impact on the Hawkesbury Nepean catchment.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.7 Servicing	Complies

Clause 7.2 Flood planning

The subject site is affected by overland flooding flows, whereby an Overland Flowpath Assessment and Stormwater Management Report prepared by Mott MacDonald, Revision C, dated 22 May 2014 was approved with the original Masters Home Improvement Store under development consent No. DA13/1257. This report indicates that the existing development improved floor levels, overland flowpaths and safety. Council's Development Engineer review the report and development proposal and raised no concerns in regard to adverse flooding impacts, subject to recommended conditions, such as the requirement for habitable floor levels being above the flood planning level and electrical services being flood proofed, etc.

Clause 7.5 Protection of scenic character and landscape values

The proposal is suitable setback from the Mulgoa Road frontage and is does not penetrate any particular scenic values from the streetscape. The overall bulk and scale is moderate relative to the existing HomeCo building, which will minimise any visual quality impacts on the immediate surrounds.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

The Draft SEPP (Environment), Draft SEPP (Remediation of Land), Draft SEPP (Housing Diversity) 2020, and Draft SEPP (Cumberland Plain Conservation) are at present applicable to the subject site, but while so, do not affect or alter the recommendations of this report, noting that the proposal is not considered inconsistent with these Draft SEPPs.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D5.2. Child Care Centres	Complies - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place, which are applicable to the development proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia (BCA) and fire safety requirements, will be imposed as consent conditions where applicable, as recommended by Council's Building Surveyor. In this regard, the proposal complies with the relevant BCA and fire safety requirements of the Environmental Planning and Assessment Regulation 2000.

In addition, the development application has been advertised, notified and publicly exhibited in accordance with the requirements of the Regulations.

Section 4.15(1)(b) The likely impacts of the development

Under Section 4.15 of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In this regard, the proposal makes provision for adequate indoor and outdoor spaces, amenities, pedestrian access, parking and vehicle manoeuvring, waste storage, safety and security and noise mitigation. The proposal is considered to be of a suitable scale given that the site has the capacity to accommodate the additional building footprint, noting the surplus of 25 parking spaces despite the loss of 69 parking spaces as a result of the Centre, as detailed in this report.

It is noted that initial land contamination concerns are considered resolved, subject to recommended conditions and that the NIA (as amended) demonstrates that the development is compliant with relevant noise guidelines, as advised by Council's Environmental Management Unit.

Given that the development is compliant with the relevant provisions and controls, it is not considered that it will result in any significant impacts on the nearby properties or the surrounding environment, nor the general public. While so, two submissions were received in regard to traffic impacts, the blocking of an unauthorised loading area for Tenancy 5 and existing wall signage, the matters raised are not considered to be of unreasonable impacts, as detailed in the submission section of this report.

Section 4.15(1)(c) The suitability of the site for the development

The development proposal is considered to be of a suitable scale and is unlikely to result in any unreasonable impacts on the surrounding natural or built environments, including local traffic flows. The subject site has connections to existing services and the site does not contain any significant flora or fauna, nor any valuable resources. Land contamination, water and waste management and visual and noise impact considerations have been adequately addressed. The site is therefore considered to be suitable for the proposal.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F2, Section 1.1.4 Notification and Advertising of the DCP, the development application was advertised in the local newspaper, notified and publicly exhibited. The proposal was advertised in the Western Weekender newspaper on 1 October 2020 and notified to 32 adjoining and surrounding properties and publicly exhibited between 8 to 19 October 2020. During this notification period, two public submissions was received in response, however, the concerns raised are not considered to impede approval of the application.

Key concerns raised in relation to the development proposal were as follows:

Issue Raised	Comments
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<p>Pedestrian Safety</p>	<ul style="list-style-type: none"> • The proposal provides a designated delivery drop-off area for the child care centre and a separate pedestrian pathway adjacent to this drop-off area. Appropriate way finding signage is provided to direct vehicle movements, which prevents vehicle conflicts. • A transport impact assessment (TIA) was provided with the development application, which demonstrates adequate swept paths throughout the reconfigured car park and adequate car parking and access. The TIA report concludes that <i>"the design of the car park has been reviewed and is considered appropriate. Suitable access is available throughout the car parking area with swept paths included attached to demonstrate circulation for a B99 design vehicle and a Small Rigid Vehicle truck. The tandem spaces are an efficient use of the car park with staff directed to park in those spaces which will ensure they are appropriately used"</i>. • The TIA report includes swept paths to demonstrate adequate vehicle manoeuvring is maintained through the car park and also to the designated drop-off/delivery area adjacent to the main entrance. Council's Traffic Engineer Unit reviewed the report and raised no objection to pedestrian safety or hazards, noting that the local road network has capacity to cater for the increase in vehicles movements as a result of the development. Given that suitable pedestrian and vehicular access and on-site parking is provided, and that the general car park speed limit is applicable, it is not considered likely that the proposal poses any traffic flow hazards.
<p>Existing On-Site Rainwater Tank</p>	<ul style="list-style-type: none"> • Any potential leaks from the on-site rainwater tank is considered to be manageable by the on-site manager/owner of the property. As such, the rainwater tank poses minimal risk to pedestrian and vehicular safety.
<p>Notification</p>	<ul style="list-style-type: none"> • The proposal was advertised in the Western Weekender newspaper on 1 October 2020 and publicly from 8 to 19 October 2020. In the case that the landlord/owner has not formally informed the tenants of Home Co that a development application for the site has been lodged with Council, this is a separate civil matter which may be pursued.

Tenancy 7 Loading Area	<ul style="list-style-type: none"> • A review of the alterations and additions and a change of use to a multi-tenancy bulky goods premises approval (DA16/1355) for the old Masters Home improvement Store building indicates that Tenancy 7 (currently Repco) is not afforded a designated loading area. While so, there is currently a rolling door and double doors adjoining the premises, whereby delivery cars and trucks may be operating from, these management practices are situated within parking spaces and is non-compliant with the development consent, which poses traffic flow and parking impacts. • Any formal loading dock in this area is subject to a modification application for assessment. Alternatively, suitable loading arrangements with the landlord/owner will need to be pursued in accordance with the development consent DA16/1355 and/or a modification application.
Existing Wall Signage	<ul style="list-style-type: none"> • It is considered that there is scope to appropriately relocate the existing wall signage along the south-west elevation of the building without compromising effective business visual communication, which is likely to require a modification application for assessment.

An email response and letter were sent to the submitters on 19 and 20 April 2020 advising of the above consideration given to their concerns.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	Not supported
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections

Traffic Engineer

It is noted that Council's Traffic Engineer raised objections in regard to the provision for adequate off-street parking, with a calculated shortfall of 47 parking spaces for the site as a result of the development proposal. This calculation is based on a gross floor area of 13,515m² and 358 parking spaces for the existing multi-tenancy bulky goods premises building, with the DCP parking rate of 1 space per 50m² and includes the parking requirement for DA20/0351, a play centre for Tenancy T5, which has since been withdrawn. In this regard, it is considered more appropriate that the GFA only occupied by the existing tenancies be used, which equates to 11,878m² and ultimately results in a surplus of 25 parking spaces despite the loss of 69 parking spaces due to the proposed building footprint of the Centre, as detailed in the Appendix of this report.

Section 4.15(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposal is considered to be generally consistent with the relevant planning provisions and subject to compliance with the recommended conditions of consent, the proposal is considered worthy of support and is not considered likely to pose any significant public interest impacts.

Conclusion

In assessing this development proposal against the relevant environmental planning policies, including Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Western Sydney Aerotropolis) 2020, State Environmental Planning Policy No. 55—Remediation of Land, State Environmental Planning Policy No. 64—Advertising and Signage and Sydney Regional Environmental Plan No. 20 Hawkesbury/Nepean River (No. 2 1997), the proposal generally satisfies the aims, objectives and provisions of these policies. Overall, the development is unlikely to have any unreasonable impacts on the surrounding natural, social or economic environments. The site is suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

Recommendation

That DA20/0581 for the erection of a centre-based child care facility, with a capacity of 110 child care placements at 72 Mulgoa Road, Jamisontown be approved, subject to the following conditions.

CONDITIONS

General

1 A001 - Approved plans table

The development must be implemented substantially in accordance with the following plans and documents stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the stamped approved plans and as amended by the following conditions.

Drawing Title	Prepared By	Project No.	DWG No.	Issue	Date
Overall Site Plan	Five Canons Architecture	19046	DA-002	N	08.04.2021
Area Plan	Five Canons Architecture	19046	DA-003	N	08.04.2021
Proposed Floor Plan	Five Canons Architecture	19046	DA-201	N	08.04.2021
Roof Plan	Five Canons Architecture	19046	DA-202	N	08.04.2021
Licensing Plan	Five Canons Architecture	19046	DA-208	N	08.04.2021
Elevations	Five Canons Architecture	19046	DA-300	N	08.04.2021
External Finishes Elevations	Five Canons Architecture	19046	DA-301	N	08.04.2021
Sections	Five Canons Architecture	19046	DA-400	N	08.04.2021
General Arrangement Plan	henry&hymas	--	20820_DA_C100	01	04.09.2020
Stormwater Miscellaneous Details & Pit Lid Schedule	henry&hymas	--	20820_DA_C200	01	04.09.2020
Soil & Erosion Control Plan	henry&hymas	--	20820_DA_SE01	01	04.12.20
Soil & Erosion Control Details	henry&hymas	--	20820_DA_SE02	G	24.09.20

Documents:

- Audit Process letter prepared by Rambol Australia Pty Ltd, Ref: 318001139, dated 8 March 2021;
- Building Code of Australia 2019.1 Design Review prepared by Hendry Group Pty Ltd, Reference No. 20200383, Revision 2, dated 31 October 2020;
- Childcare Centre Management Plan prepared by Aurrum Childcare and Preschool, dated September 2020;
- Civil Design Statement prepared by H&H Consulting Engineers Pty Ltd (henry&hymas), Ref: 20820/tr, dated 14 September 2020;
- Conceptual Site Model prepared by Senversa Pty Ltd, Ref: S18159_006_CSM_Rev0, dated 10 December 2020;
- Construction Environmental Management Plan prepared by Senversa Pty Ltd, Ref: S18159_007_CEMP_Rev0, dated 10 December 2020;
- Long Term Environmental Management Plan prepared by Senversa Pty Ltd, Ref: S18159_008_LTEMP_Rev0, dated 10 December 2020;
- Landscape Concept Design Package prepared by Aspect Studios, Project No. A20014-SK001, dated 25 November 2020;
- Noise Impact Assessment, prepared by Rodney Stevens Acoustics Pty Ltd, Report No. 200754R1, Revision 1, dated 16 February 2021;
- Roof Water Harvesting letter prepared by VOS Group Pty Ltd, Ref: S9645, dated 20 November 2020;
- Site Suitability letter prepared by Senversa Pty Ltd, Ref: S18159_009_LTR_Rev0, dated 1 March 2021;
- Soil Vapour Assessment Report prepared by Senversa Pty Ltd, Ref: S18159_004_LET_Rev0, dated 20 October 2020;
- Summary of Contaminated Land Condition prepared by Senversa Pty Ltd, Ref: S18159_002_Let_Rev0, dated 31 August 2020;
- Transport Impact Assessment prepared by onemilegrid, Ref: 200095TIA001F-F, dated 10 September 2020; and
- Waste Management Plan prepared by Willow Tree Planning, Ref: WTJ20-149_WMP, dated 10 December 2020.

2 [A012 - Food Act](#)

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

3 [A019 - Occupation Certificate](#)

The development shall not be used or occupied until the Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Team is required **prior to the issue of an Occupation Certificate**. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

4 [A021 - Business Registration](#)

The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the issue of an Occupation Certificate and operation of the business**.

5 [A026 - Advertising sign \(not for residential\)](#)

A separate development application for the erection of a sign or advertising structure, other than advertising listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

6 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The approved operating hours are from 6.30am to 6.30pm, Mondays to Fridays.

7 [A039 - Graffiti](#)

The finishes of all structures and the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

8 [A046 - Obtain Construction Certificate before commencement of works](#)

A **Construction Certificate** shall be obtained prior to commencement of any building works.

9 [A Special \(BLANK\)](#)

The maximum number of children placed at the centre is to be limited to 110, with 44 child care placements for 0-2 years old, 26 places for 2-3 years old, 40 places for 3-6 years old.

10 [A special BLANK](#)

A NSW EPA Accredited Site Auditor is to be engaged and shall oversee and endorse the development works in accordance with the Contaminated Land Management Guidelines for the NSW Site Auditor Scheme (3rd edition) and the conditions of this consent. All contamination management works are to consider and incorporate necessary engineering and other technical requirements to ensure the stability, durability, safety and longevity of the contamination containment system endorsed by the Site Auditor.

11 [A Special CPTED Requirements](#)

The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Car Parking

- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the building.
- Australian Standard 220 – door and window locks must be installed.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Security provisions outlined in Plan of Management to be conditioned.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- Outdoor equipment/furniture must be stored away after hours to minimise opportunities for vandalism/theft.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

12 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

13 [B004 - Dust](#)

Dust suppression techniques are to be employed during demolition and construction works to reduce any potential nuisances to surrounding properties.

14 [B005 - Mud/Soil](#)

Mud and soil from vehicular movements to and from the site during demolition and construction works must not be deposited on the road.

Environmental Matters

15 [D- Approved noise Level 3](#)

Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "*Interim Construction Noise Guideline*" 2009.

16 **D001 - Implement approved sediment& erosion control measures**

Erosion and sediment control measures shall be installed **prior to the commencement of works on-site**. The erosion and sediment control measures are to be maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development. Erosion and sediment control measures are to be in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004. (Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

17 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of the Certifying Authority or Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No. 2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

18 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Council approved '*Noise Impact Assessment: Proposed Child Care Centre, 72 Mulgoa Road, Jamisontown NSW 2750*' prepared by Rodney Stevens Acoustics and dated 16 February 2021 (Ref. 200754R1 Revision 1). The recommendations provided in section 6 the Noise Impact Assessment shall be implemented and incorporated into the design, construction and operation of the development, and shall be shown on plans accompanying the Construction Certificate application. This applies to the acoustic fencing required by the Noise Impact Assessment.

A compliance certificate is to be obtained from a qualified acoustic consultant certifying that the development (including acoustic fencing) has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to Penrith City Council **prior to the issue of an Occupation Certificate**.

19 **D014 - Plant and equipment noise**

All mechanical plant and equipment is to comply with the noise criteria outlined in the '*Noise Impact Assessment: Proposed Child Care Centre, 72 Mulgoa Road, Jamisontown NSW 2750*' prepared by Rodney Stevens Acoustics dated 16 February 2021 (Ref. 200754R1 Revision 1).

Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information, prepared by a suitably qualified acoustic consultant, on the noise impacts associated with this plant and equipment is to be supplied to demonstrate compliance with the established noise criteria.

Prior to the issue of an Occupation Certificate, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to and approved by Council. The Certificate is to outline that all plant and equipment has been installed to comply with the above information and the established noise criteria.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

20 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Certifying Authority or Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification in accordance with the requirements of the NSW EPA (2015) 'Waste Classification Guidelines' or the requirements of the applicable resource recovery order (RRO) and resource recovery exemption (RRE) issued by the EPA under clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: an appropriately qualified person is defined as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

A NSW EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997) shall supervise the filling works. A Site Audit Statement and Site Audit Report must be submitted to Penrith City Council and any Principal Certifying Authority on completion of the filling works. The site must be suitable for its intended land use and shall not pose any unacceptable risk to human health or the environment.

The contact details of the EPA Accredited Site Auditor engaged for the works shall be provided with the Notice of Commencement.

21 **D131 - Approved noise level 2**

Due to noise requirements, restrictions apply to the number of children allowed in the outdoor play area at any one time. A maximum of:

- 44 children aged 0-2 years or
- 26 children aged 2-3 years or
- 40 children aged 3-5 years are permitted.

22 [D special BLANK](#)

Works shall be carried out generally in accordance with the NSW EPA accredited Site Auditor endorsed:

- 'Conceptual Site Model, Proposed Childcare Centre, 72-80 Mulgoa Road, Penrith NSW', dated 10 December 2020 (the CSM);
- 'Construction Environmental Management Plan, Proposed Childcare Centre, 72-80 Mulgoa Road, Penrith NSW', dated 10 December 2020 (the CEMP);
- 'Long-Term Environmental Management Plan, Child Care Centre, 72-80 Mulgoa Road, Penrith, NSW', dated 10 December 2020 (the EMP);
- Any additional NSW EPA accredited Site Auditor requirements as identified during site development works;
- Audit Process Letter titled 'Re: Contamination Audit Process Letter, 72 Mulgoa Road, Jamisontown NSW' prepared by Ramboll and dated 8 March 2021 (author NSW EPA Accredited Auditor 1505); and
- The applicant/developer must manage the site in accordance with any Environmental Management Plan approved by the Site Auditor (if any).

as well as Penrith Development Control Plan 2014, applicable NSW Environment Protection Authority Guidelines (including the Contaminated Land Management Guidelines for the NSW Site Auditor Scheme), and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

Prior to issue of an Occupation Certificate, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Site Audit Statement and Site Audit Report prepared by a NSW EPA Accredited Site Auditor and confirming that the land is suitable for the proposed land use as a child-care centre.

23 [D special BLANK](#)

Prior to the issue of an Occupation Certificate, the applicant shall register a Restriction as to User with Land and Property Information, relating to the NSW EPA Accredited Site Auditor endorsed Environmental Management Plan regarding containment of contamination on site with Council being the beneficiary. The Restriction as to User shall contain words that are in accordance with the Site Audit Statement and Site Audit Report and include words to the effect:

'This land is subject of an Environmental Management Plan that contains specific requirements in relation to managing activities on this land. Please contact Penrith City Council on 4732 7777 to access information contained in this report'.

24 [D Special BLANK](#)

Prior to the issue of a Construction Certificate, the following reports are to be submitted to Penrith City Council for approval. The reports are to be endorsed by a NSW EPA accredited Contaminated Sites Auditor and be submitted together with the associated Site Auditor Interim Audit Advice (IAA) letter as detailed in the document titled '*RE: Contamination Audit Process Letter, 72 Mulgoa Road, Jamisontown NSW prepared by Ramboll Australia and dated 8 March 2021 (ref: 318001139)*'.

The required reports are to include, but not necessarily be limited to:

- Environmental Management Plan (EMP);
- Conceptual Site Model (CSM); and
- Construction Environment Management Plan (CEMP).

All activities on the site are to be implemented and carried out in accordance with the above Site Auditor endorsed and Council approved documents, as well as the conditions of this consent.

25 [D Special BLANK](#)

Prior to the issue of a Construction Certificate, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The approved Waste Management Plan must be implemented and adhered to on site, with supporting documentation/receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

26 [D Special BLANK](#)

Appropriate signage is to be installed in the carpark and entrance of the centre requesting patrons to minimise noise and protect the amenity of the surrounding neighbourhood.

Prior to the issue of an Occupation Certificate, a suitable signage plan is to be submitted to Council for approval. The signage plan is to provide details on the location, sizing and wording of the proposed signs and the signs are to be constructed **prior to the issue of an Occupation Certificate**.

27 [D Special BLANK](#)

In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

The noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

28 [D Special BLANK](#)

A Noise Management Plan (NMP) is to be prepared and submitted to Penrith City Council for consideration and approval **prior to the issue of an Occupation Certificate**. The NMP shall be prepared by suitably qualified persons, and may need to be amended to include any comments provided by Council. The NMP is to address all noise related aspects of the development's operational phases, including:

- address the relevant conditions of this consent; and
- recommend any systems/controls to be implemented to minimise the potential for any adverse noise impact(s); and
- incorporate a program for ongoing monitoring and review to ensure that the NMP remains contemporary with relevant environmental standards.

The approved Noise Management Plan is to be implemented and complied with at all times.

29 [D Special BLANK](#)

Should remediation be required that is outside the scope of works detailed in the Construction Environmental Management Plan and Long Term Environmental Management Plan submitted with this application, Penrith City Council is to be notified and consulted before the remediation works commence. This applies in addition to the requirement for endorsement by a NSW EPA Accredited Site Auditor.

BCA Issues

30 [E004 - Floor wastes](#)

The requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000 are to be taken into consideration **prior to the issue of a Construction Certificate**. In particular, but not limited to, the consequence of the construction of the child care centre on the open space requirements of the existing building as per Clause C2.3 of the Building Code of Australia is to be addressed. This may be by the formulation of a "Performance Solution".

31 [E006 - Disabled access and facilities](#)

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the relevant Construction Certificate application.

32 E01A - BCA compliance for Class 2-9

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

33 F001 - General Fitout

The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises*.

34 F022 - Commercial kitchen(exhaust system)

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and AS 1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and AS 1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

35 F031 - Floor & floor waste

The floor of the food premises must be finished in an approved non-absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

36 F032 - Floor covering

Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

37 F033 - Walls – food prep area

The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

38 [F034 - Walls – behind cooking appliances](#)

The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

39 [F035 - Ceilings](#)

The ceiling in the kitchen must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

40 [F046 - Cleaners sink](#)

A cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors must be provided within the facility. Cleaner's sinks must be located outside of areas where open food is handled.

41 [F047 - Fixtures & fittings](#)

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200mm.

NOTE: False bottoms under fittings are not permitted (AS 4674-2004 – Sections 4.2 and 4.3).

42 [F057 - Waste storage](#)

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the Protection of the Environment Operations Act 1997 to prevent the harbourage of vermin or generation of odours.

43 [F060 - Grease Arrestor](#)

The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

44 [F Bottle preparation area](#)

A bottle preparation sink and a separate hand washing sink must be provided to all bottle preparation areas.

45 [F Construction Certificate](#)

Prior to the issue of a Construction Certificate, detailed specifications and plans of the kitchen fit-out must be provided to the Certifying Authority demonstrating Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fit-out of Food Premises* will be met.

46 [F Hand basins](#)

Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

47 [F Nappy Changing Areas](#)

Hand washing facilities must be provided immediately adjacent to nappy changing stations.

Utility Services

48 [G002 - Section 73 \(not for](#)

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

49 [G004 - Integral Energy](#)

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

Construction

50 [H001 - Stamped plans and erection of site notice](#)

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on-site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on-site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works on-site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Final Occupation Certificate has been issued for the development.

51 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by Council, or
- alternatively, any other sewage management facility approved by Council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

52 H041 - Hours of work (other devt)

Construction and demolition works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Engineering

53 K101 - Works at No Cost to Council

All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

54 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council **prior to commencement of any works on-site or prior to the issue of any Construction Certificate**, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

55 [K205 - S68 Local Government Act - Stormwater Drainage Works](#)

Prior to the issue of any Construction Certificate, the Certifier shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for provision of Stormwater Drainage connection to Council's trunk drainage system located within the carpark in.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- All works associated with the Section 68 Local Government Act approval must be completed **prior to the issue of an Occupation Certificate** as applicable.

56 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with plan/s lodged for development approval, prepared by Henry & Hymas P/L, reference number 20820_DA_C100, revision 01, dated 04.09.2020.

Prior to the issue of any Construction Certificate or Subdivision Works Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policies.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for the Construction Certificate.

57 [K212 - No Loading on Easements](#)

Prior to the issue of a Construction Certificate, the Certifier shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.

58 [K215 - Flooding - Floor Levels \(Minor Development\)](#)

Prior to the issue of a Construction Certificate, the Certifier shall ensure that all habitable floor levels are a minimum RL 29.65m AHD.

59 [K219 - Flooding - Flood Proofing](#)

Prior to the issue of a Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith Development Control Plan 2014 relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the adopted flood level of RL 29.65m AHD.

60 [K301 - Sediment & Erosion Control](#)

Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

61 [K401 - Flooding - Surveyor Verification of Floor Levels](#)

A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 29.65m AHD (adopted flood level +0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Certifier.

62 [K501 - Penrith City Council Clearance - Roads Act / Local Government Act](#)

Prior to the issue of an Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

63 [K503 - Stormwater Compliance](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

64 [K504 - Restriction as to User and Positive Covenant](#)

Prior to the issue of an Occupation Certificate, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F.

65 [K - Waterways - Stormwater Management system operation and maintenance](#)

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

66 [K Special \(BLANK\)](#)

All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials, etc.

67 [K Special \(BLANK\)](#)

Childcare Drop Off and Staff Parking spaces should be sign posted accordingly.

Landscaping

68 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plans and Appendix F4: Technical Information and C6 Landscape Design of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

69 [L002 - Landscape construction](#)

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

70 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

71 L006 - Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

72 L009 - Tree Preservation Order (subdivision)

No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

Development Contributions

73 N Special (BLANK)

This condition is imposed in accordance with Penrith City Council's Section 7.12 Citywide Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$25,490.00 is to be paid to Council prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

74 Q006 - Occupation Certificate (Class 2 - 9)

A Final Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Final Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the above mentioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

75 Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)

Prior to the commencement of any earthworks or construction works on-site, the proponent is to:

- employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

C3.2 Catchment Management and Water Quality

The proposal includes the use of rainwater tanks for landscaping and water saving devices to reduce non-potable water demand, such as all tapware being WELS rated with dual flush toilet cisterns incorporated into the selection of the proposed sanitary fixture and tapware. It should be noted that the proposal generally requires a 80% non-potable water reuse in accordance with Council's Water Sensitive Urban Design Policy. However, the management of a rainwater harvesting system for toilet flushing would be of a High-Risk Category for the childcare centre due to the reliance on the effectiveness and quality of the ongoing maintenance and monitoring program, which cannot guarantee 100% infection control through any filtration or ultraviolet treatment equipment, or to control the aerosol effect generated via toilet flushing of any contaminated water (which may arise from faulty equipment or lack of ongoing routine maintenance/monitoring). As such, the proposed water saving measures is considered to be adequate in this case, as endorsed by Council's Catchment Management Officer.

C5 Waste Management

C5.3.4 Siting and Design of Waste Storage and Collection Areas

The proposal (as amended) makes provision for a bin store room, which has the capacity to store 4 x 660L waste/recycling bins, with direct access to the external footpath and car park. In accordance with Council's Commercial Waste Generation Rates Guidelines, the following waste generation rates for childcare centres:

- Residual waste generation: 80L/100m² floor area/day; and
- Recycling generation: 80L/100m² floor area/day.

The proposed Centre has a total internal floor area of 364.77m², which equates to 291.82L of waste and 291.82L of recyclables per day, as per Council's waste generation rates.

A total of 583.64L combined waste and recycling waste is adequately accommodated by the proposed bin store, given its 2,640L total capacity. Further, waste collection is to be carried out by a private waste contractor, with collections organised as frequently as necessary based on the waste generation of the Centre, which is deemed adequate.

C10 Transport, Access and Parking

C10.5 Parking, Access and Driveways

The subject site makes provision for a total of 365 off-street car parking spaces, noting the additional 20 parking spaces via consolidating trolley bays, trailer parking spaces and a drive through trade yard, which is not required as per the previous Masters Home Improvement Store approval. In accordance with the existing tenancies and Council's parking rate of 1 space/50m² of gross floor area (GFA) for a bulky goods premises (13,1517m²), a surplus of 94 parking spaces is available.

In regards to the parking rates for child care centres, the DCP stipulates a parking rates of 1 space per 10 children plus 1 per employee plus provision for any dwelling, with a notation that where a child care centre/pre-school is not located in or immediately adjoining a residential area, a submission to vary the above parking rates will be considered. The proposed Centre caters for 110 children and 22 staff, which requires 33 off-street parking spaces but also results in a loss of 69 parking spaces due to the building footprint. It should also be noted that the RMS Guide to Traffic Generating Developments (2002) stipulates a parking rate of 1 spaces per 4 children for child care centres, which equates to 28 parking spaces, being considerably less than the DCP parking provision.

The TIA accompanied with the development application concluded a deficit of two car parking spaces as a result of the proposal and included the loss of 33 parking spaces due to DA20/0351 for a play centre for Tenancy 5, which has since been withdrawn. The TIA states that 365 parking spaces (including the consolidation of parking via removal of trolley bats, etc.) are available and based the GFA calculation on 11,602m², which is the occupied tenancy floor

space (i.e. excluding common areas, amenities and services, etc.).

It should be noted that there is discrepancies between the calculated parking rates put forward in the TIA and Council's Traffic Engineer, in that, Council's Traffic Engineer based the parking rate on a GFA of 13,1517m², 358 available parking spaces and included the loss of 33 parking spaces (DA20/0351), which ultimately equates to a shortfall of 47 parking spaces.

In consideration of the above, a review of the parking provision indicates that the proposal will result in a surplus of 25 parking spaces, noting that it is considered appropriate that only occupied tenant GFA of 11,878m² be used for the calculation, as per the multi-tenancy bulky goods premises approval (DA16/0355), as detailed in the below table. As such, the proposal makes provision for adequate off-street parking, noting that a review of historical aerial images of the site indicates that it is unlikely that the car park reaches full capacity at any given time.

Table 1. Car Parking Rates

GFA	11,878m²
Existing parking spaces	365
Bulky Goods Premises minimum parking requirement (parking rate 1/50m²)	237.56
Existing surplus parking spaces (365 - 237.56)	127.44
The Centre minimum parking space requirement (110 placements & 22 Staff - Parking rate 1 space per 10 children & 1 per employee)	-33
Loss of parking spaces due to the Centre	-69
Total Surplus Parking Spaces	25.44

C10.5.2 Access and Driveways

The proposal provides a designated delivery drop-off area adjacent to the main entrance and childcare drop off and staff parking spaces adjacent to the Centre, with low traffic islands situated adjacent to the main driveway and appropriate way finding signs to direct vehicle movements. The TIA demonstrates adequate swept paths throughout the modified car park, which is endorsed by Council's Traffic Engineering Unit. Further, a pedestrian pathway surrounds the perimeter of the Centre, which stops at the end of the building footprint fronting Regentville Road. These vehicular access and pedestrian arrangements are considered to be adequate and poses minimal hazards.

C12 Noise and Vibration

C12.4 Industrial and Commercial Development

A NIA was provided at the request of Council to demonstrate that proposal will not result in any adverse amenity impacts on the immediate surrounds or the amenity of the users of the Centre, noting the proximity of Mulgoa Road, a classified road. The NIA was amended to address minor discrepancies regarding the child care placement numbers and hours of operation relative to the statement of environmental effects. The amendments are considered satisfactory given that the NIA demonstrates that the proposal is within the relevant noise criteria and does not pose adverse impacts on surrounding properties, as endorsed by Council's Senior Environmental Management Officer.

D5 Other Land Uses

D5.2. Child Care Centres

It should be noted that the provisions of the Child Care Planning Guideline 2017 take precedence over the DCP and that there are a number of development controls that either overlap or are not applicable to the development proposal. Overall, the proposal is considered to be generally compliant with the relevant development controls, including Section 5) Vehicle Access, Circulation and Parking and Section 6) Noise in the DCP, as detailed in the SEPP (Educational Establishments and Child Care Facilities) 2017 section and the Appendix of this report.