

WILLOWTREE PLANNING



29 September 2021

Ref: WTJ21-432

The General Manager
Penrith City Council
PO Box 60
Penrith NSW 2751

Via NSW Planning Portal

**SECTION 4.55(1A) APPLICATION FOR MODIFICATION OF DA20/0581
ALTERATIONS AND ADDITIONS TO CHILDCARE CENTRE
72 MULGOA ROAD, JAMISONTOWN (LOT 200 DP 1230338)**

1. INTRODUCTION

Dear Sir/Madam,

Reference is made to development consent **DA20/0581** granted on 2 April 2021 for construction of 110 place child-care centre and associated civil works at 72 Mulgoa Road, Jamistown, being legally described as Lot 200 of DP 1230338.

This statement has been prepared in support of a Section 4.55(1A) Modification Application submitted to Penrith City Council, seeking to modify to development consent **DA20/0581 (Appendix 1)** which granted consent for:

Construction of 110 Place Child Care Centre and Associated Civil Works

This application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), on behalf of Homeco (Penrith) Pty Ltd. The following supporting documentation has been provided as part of this application:

- **Appendix 1** Development Consent (**DA20/0581**)
- **Appendix 2** Updated Architectural Plans
- **Appendix 3** Updated Civil Engineering Plans
- **Appendix 4** Transport Impact Assessment

The proposed modifications comprise of changes to car parking layout of the development including:

- Revised car-parking layout to allow two (2) way traffic flow in the car-park;
- Removal of stacked parking as approved; and
- Provision of nine (9) dedicated childcare drop off parking spaces.

The proposed changes result in the addition of one (1) parking spaces to the approved development. The overall intent of the changes is to improve vehicular and pedestrian egress around the Site including safer pedestrian movement.

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2. SITE LOCATION AND CHARACTERISTICS

The subject site is identified as 72 Mulgoa Road, Jamisontown, being legally described as Lot 200 DP 1230338.

The Site exhibits an approximate area of 3.015ha with a primary frontage to Mulgoa Road to the north-west and a secondary frontage to Regentville Road to the south-east.

The Site is zoned B5 Business Development zone pursuant to the *Penrith Local Environmental Plan 2010* (PLEP 2010). The Site is surrounded by a mixture of land use zoning including SP2 Infrastructure to the north and IN1 General Industrial.

To the north-east the Site adjoins bulky goods units and a plumbing showroom, and to the south-west the Site adjoins a Freedom Furniture store, fast-food restaurant, car sales yard, vehicle repair centre and bulky goods premises. To the north-west dwelling houses are situated on the opposite side of Mulgoa Road, and to the south-east industrial units are located on the opposite side of Regentville Road.

In its existing state the Site comprises a Home Co bulky goods centre comprising nine (9) tenancies within a large-plate building offering a common mall area and ancillary amenities including a café. The south-western section of the Site provides on-grade car parking. Loading facilities are located in the northern and eastern corners of the Site.

Vehicular access to the Site for customers is facilitated via both street frontages, by a two-way access driveway connecting to both the Home Co and neighbouring Freedom car parks. A separate driveway for delivery vehicles affords access from Regentville Road.

Existing vegetation on the Site is limited to shrubs and grasses adjacent to the street frontages and dispersed through the car parking areas.

The Site is shown in **Figure 1** and **Figure 2** below.



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Figure 1. Cadastral Map (Source: Sixmaps, 2021)



Figure 2. Aerial Map (Source: Nearmaps, 2021)

3. DEVELOPMENT HISTORY

The Site has been subject to multiple development applications given the nature of the B5 Business Development zoning. **Table 1** is an outline of key development applications as they relate to the Site.

Table 1. Development History		
Application No.	Description	Determination



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DA 13/1257	Home Improvement Store, bulky goods tenancies x 4 and Torrens Title subdivision x 2 lots.	Approved - 24 March 2014
DA 13/1257.01	Modifications to Masters Home Improvement Store car parking, access, signage and landscaping and reorientation of bulky goods tenancies.	Approved - 12 October 2017
DA 14/0555	Demolition of existing structures.	Approved - 11 June 2014
DA 14/0688	Site remediation works.	Approved - 07 August 2014
DA 16/1355	Alterations and additions to existing Masters building, change of use to Bulky Goods Premises, ancillary café and associated signage.	Approved - 10 February 2017
DA 16/1355.01	Modification to approved signage for bulky goods premises.	Approved - 12 October 2017
DA 16/1355.02	Addition of a mezzanine in Tenancy No. 7 for approved bulky goods premises.	Approved - 10 November 2017
DA20/0351	Internal alterations to create two (2) tenancies (T5 and T5A) and fit-out and use of Tenancy T5 as an Indoor Recreation Facility (Chipmunks Playland)	Withdrawn - 14 August 2020
DA20/0581	Construction of 110 Place Child care centre and associated civil works	Approved - 20 April 2021

4. PROPOSED MODIFICATIONS

The proposed modifications comprise of a reconfiguration of the parking layout including:

- Revised car-parking layout to allow two (2) way traffic flow in the carpark;
- Removal of stacked parking as approved; and
- Provision of nine (9) dedicated childcare drop off parking spaces.

The proposed reconfiguration results in the addition of one (1) car parking spaces to the approved development.

The revised carparking layout in comparison to the approved plans is provided in **Figure 3** and **Figure 4** below.



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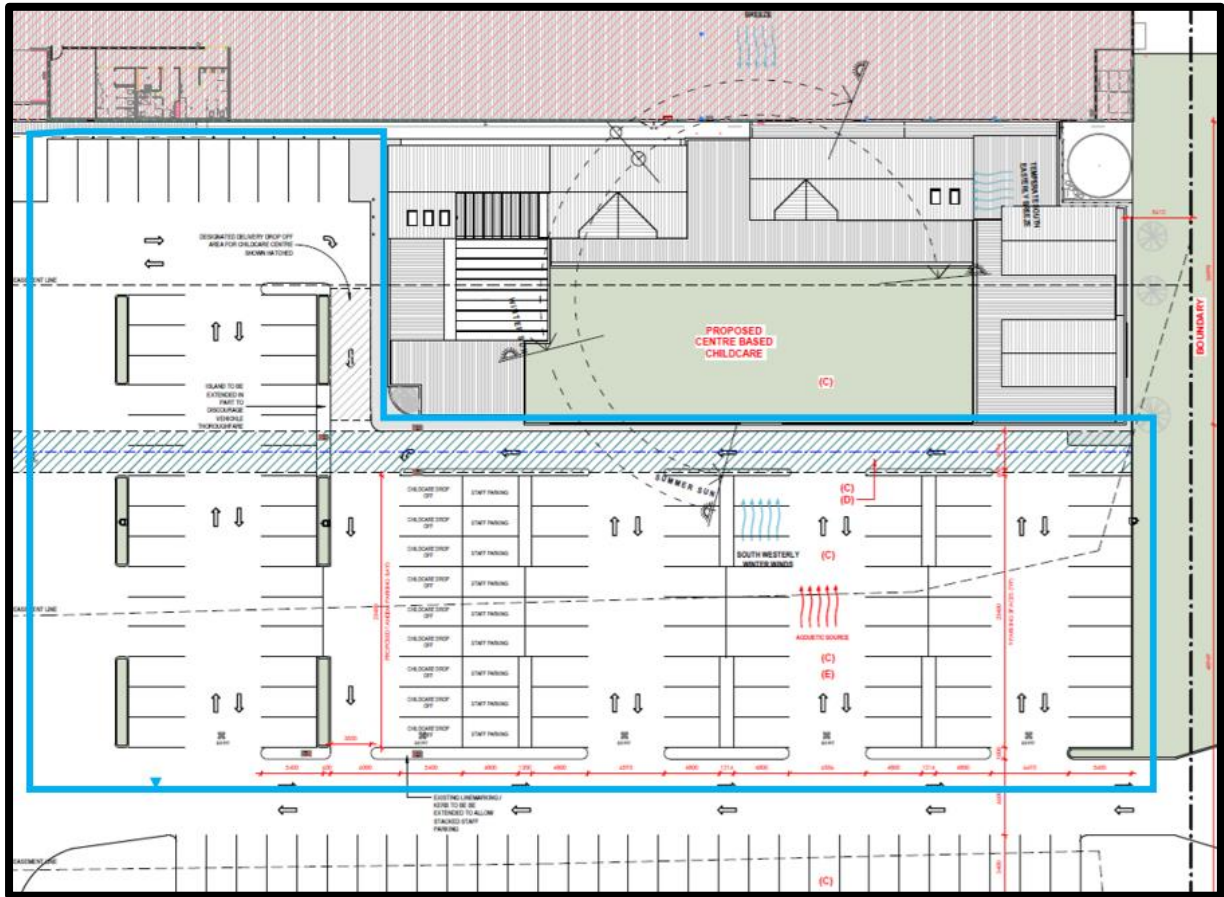


Figure 3. Approved car-parking layout (Source: 5 Canons Architecture, 2021)

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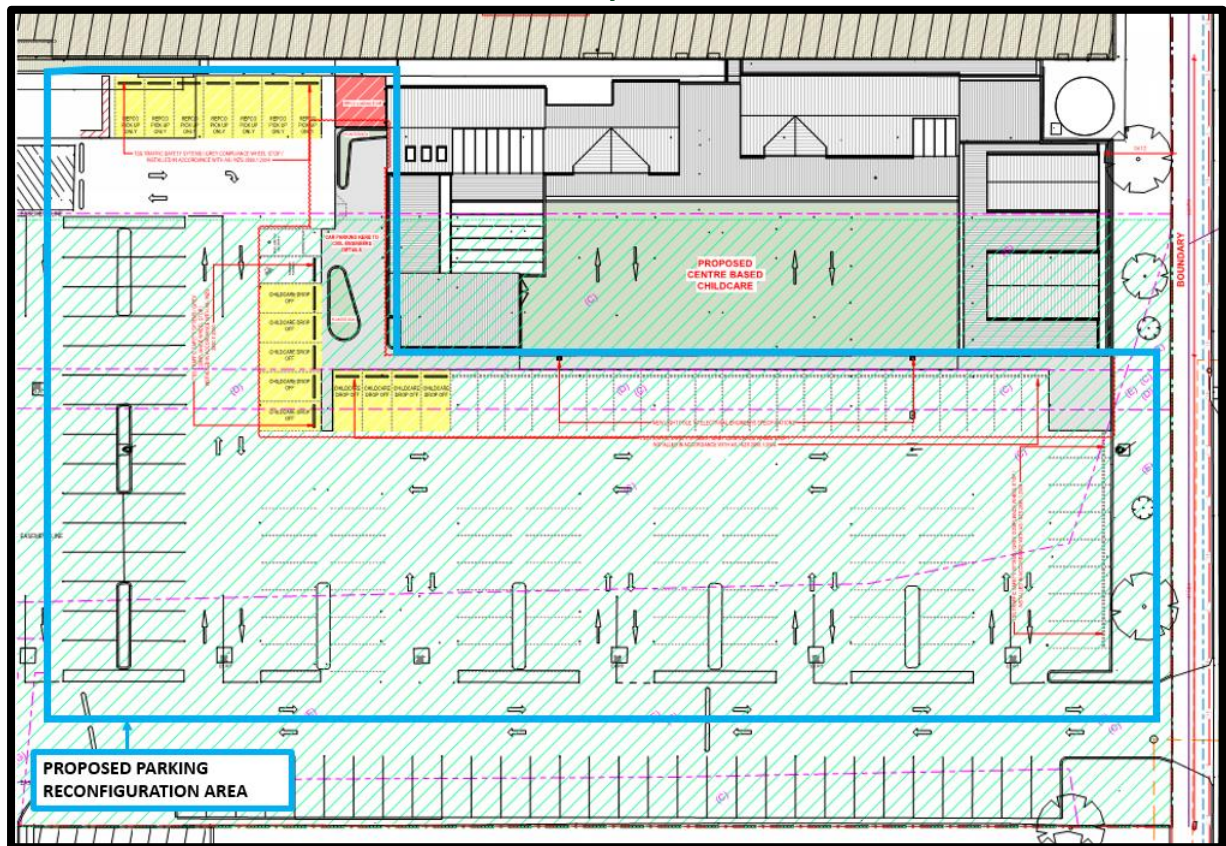


Figure 4. Proposed car-parking layout (Source: 5 Canons Architecture, 2021)

5. AMENDED DEVELOPMENT CONSENT

The desired development outcome as outlined above requires the following modifications to development consent **DA20/0581**.

The proposed amendments are demonstrated in **red**, with deletions as a **strikethrough** and additions as **bolded**.

5.1 Proposed Conditions

Condition No. 1

General

- 1 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	FiveCanons Architecture	19046	DA-002	N-Z	08.04.2021 02.09.2021

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Area Plan	FiveCanons Architecture	19046	DA-003	N-Z	08.04.2021 02.09.2021
Proposed Floor Plan	FiveCanons Architecture	19046	DA-201	N-Z	08.04.2021 02.09.2021
Roof Plan	FiveCanons Architecture	19046	DA-202	N-Z	08.04.2021 02.09.2021
Licensing Plan	FiveCanons Architecture	19046	DA-208	N-Z	08.04.2021 02.09.2021
Elevations	FiveCanons Architecture	19046	DA-300	N-Z	08.04.2021 02.09.2021
External Finishes Elevations	FiveCanons Architecture	19046	DA-301	N-Z	08.04.2021 02.09.2021
Sections	FiveCanons Architecture	19046	DA-400	N-Z	08.04.2021 02.09.2021
General Arrangement Plan	henry&hymas	--	20820_DA_C10 0	01	04.09.2020 31.08.2021
Stormwater Miscellaneous Details & Pit Lid Schedule	henry&hymas	--	20820_DA_C20 0	01	04.09.2020 31.08.2021
Soil & Erosion Control Plan	henry&hymas	--	20820_DA_SE01	01	04.09.2020 31.08.2021
Soil & Erosion Control Details	henry&hymas	--	20820_DA_SE02	G	04.09.2020 31.08.2021

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 Acoustic Pty Ltd, Report No. 200754R1, Revision 1 dated 16 February 2021;
- Roof Water Harvesting letter prepared by VOS Group Pty Ltd, Ref: S96645, dated 20 November 2020;
- Site Suitability letter prepared by Senversa Pty Ltd, Ref: S18159_009_LTR_Rev0, dated 1 March 2021;



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- 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, Ref: S18159_002_Let_Rev0, dated 31 August 2020
- Transport Impact Assessment prepared by onemilegrid, Ref: 200095TIA001F-F, dated ~~10~~ 17 September ~~2020~~ 2021; and
- Waste Management Plan prepared by Willow Tree Planning, Ref: WTJ20-149_WMP, dated 10 December 2020.

6 STATUTORY PLANNING FRAMEWORK

6.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act is the principal planning and development legislation in New South Wales. Pursuant to Section 4.46, the proposal is integrated development. The modifications sought to the development consent **DA20/0581** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The provisions of Section 4.55 of the EP&A Act provided in **Table 2** below require consideration in this instance.

TABLE 2. SECTION 4.55(1A) - (3) ASSESSMENT

Clause	Response
<i>(1A) Modifications involving minimal environmental impact</i> A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—	
<i>(a) it is satisfied that the proposed modification is of minimal environmental impact, and</i>	The proposed modification will result in no changes to the overall built form of the development. The modifications relate to a reconfiguration of carparking to improve overall pedestrian and vehicular safety. The modifications will improve the functionality of the carpark without adversely affecting the surrounding road network.
<i>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	The proposed reconfiguration to the carpark involves no changes to the use, built form or access of the development approved under DA20/0581 . The development, as amended, results in the addition of one (1) car-parking spaces within the approved car-park of the development.
<i>(c) it has notified the application in accordance with—</i> <i>(i) the regulations, if the regulations so require, or</i> <i>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i>	In accordance with Appendix F4 of the Penrith Development Control Plan 2014 (PDCP2014), a modification application will not be notified if in the opinion of Council, the proposed amendments to the development consent are unlikely to prejudice any person(s) previously notified of the development application or any person(s) who made a submission to the development application.
<i>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	The applicant is willing to address any submissions should they be received by Council during any notification period.



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(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Refer to **Section 5 to 7** of this Section 4.55 Letter.

6.1.1 SECTION 4.55(1)(A) - SUBSTANTIALLY THE SAME DEVELOPMENT

The scope of a maximum modification of a consent without constituting assessment as a standalone application can be analysed through the ambit of *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*, whereupon Commissioner Mason P. found in relation to modification of development consents that the word “modify” was given the ordinary meaning of “to alter without radical transformation”. Therefore, the extent to which a consent may be modified is that to which the consent, as modified, is as approved without radical transformation or alteration.

The development, as modified, is substantially the same development and will not result in a radical transformation of **DA20/0581** for the following reasons:

- The modification retains the approved primary land use for child-care centre purposes, and proposes no change to this fundamental element of the approval;
- There are no substantial quantitative changes proposed to the approved building bulk or scale including changes to the height, GFA, or setbacks of the building;
- The function, form, operations, and importantly, public perception of the site, as a child care centre remains unchanged, with the reconfiguration of the car-parking layout improving functionality and safety for vehicular and pedestrian movement.

In light of the above, the proposal as amended, is not considered to result in a “radical transformation” of the consent, as currently approved, satisfying the radical transformation test pursuant to *Michael Standley & Associates Pty Ltd v North Sydney Council [2005] NSWLEC 358*.

Whilst the proposal seeks to amend the carparking layout, this would not constitute a radical change to the ultimate development outcome of the Site given the function and form remains substantially the same as that approved. This is further analysed in *Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280* which applies a quantitative and qualitative test to determine what qualifies a development as being “substantially the same”.

Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280 provides that a comparison of the development as approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the approved development. The comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).

The development, as amended, is considered to be essentially or materially the same given there will be minimal environmental impact and car-parking space numbers are compliant with the Standards and Controls. Further, from a qualitative perspective and quantitative perspective, the development retains its identity as a child-care centre.



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Therefore, the proposal, as amended, will be substantially the same development as approved, and satisfies the requirements for the application to be assessed and approved pursuant to Section 4.55(1A) of the EP&A Act.

6.1.2 Section 4.55(3) – Section 4.15 - Reasons given by the consent authority for the grant of the consent

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 3** below.

Table 3. Section 4.15(1) Considerations	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The development, as amended is deemed to be consistent with the provisions of the PLEP2014 and E-SEPP as demonstrated in Section 5 of this Letter.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	No draft instruments are applicable to the modifications proposed under this application.
Section 4.15(1)(a)(iii) any development control plan, and	Refer to Section 7.1 of this Letter.
Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	There is no Voluntary Planning Agreement (VPA) that applies to the proposal or subject site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to Section 6.2 of this letter.
Section 4.15(1)(b)-(e)	Refer to Section 8 of this letter.

6.2 Environmental Planning & Assessment Regulation 2000

This application has been prepared in accordance with the provisions of the EP&A Regulation. Clause 115 of the EP&A Regulation stipulates how a modification application must be “made”. This DA satisfies the relevant criteria of the Regulation as follows:

- Clause 115 – The documentation required for the subject Section 4.55 Modification will be submitted to Penrith City Council electronically via the NSW Planning Portal.

Further, the proposed modification does not trigger ‘Designated Development’ pursuant to Schedule 3 of the EP&A Regulation.

6.3 STATE ENVIRONMENTAL PLANNING POLICIES

6.3.1 State Environmental Planning Policy (Infrastructure) 2007



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Among other functions, *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) provides for certain proposals known as Traffic Generating Development, to be referred for concurrence to Transport for NSW (TfNSW).

The requirements of the ISEPP were assessed under the parent consent **DA20/0581**. It was concluded that the childcare centre would not generate traffic that would require consideration of traffic generating development under the ISEPP. The modifications proposed under this application do not alter this conclusion. Accordingly, further consideration is not required.

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

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (E-SEPP) aims to facilitate the effective delivery of educational establishments and early education and care facilities across the state.

Part 3 of the E-SEPP outlines specific development controls for centre-based childcare facilities. Of key relevance, Clause 23 requires the consent authority to take into consideration any applicable provisions of the *Child Care Planning Guideline* ('the Guideline'). Further consideration to the Guideline is offered in **Section 5.3.3** below, where relevant to the proposed modifications under this application.

Clause 25 prescribes non-discretionary development standards, meaning that, if complied with, the consent authority cannot require more onerous standards for those matters. The development, as amended, does not result in any changes to the non-discretionary development standards of the E-SEPP, given the relate solely to a reconfiguration of car-parking layout. In this regard, the development, as amended, does not contravene any non-discretionary development standards under the E-SEPP.

Further, Clause 26 states that Development Control Plans (DCPs) do not apply in relation to the following matters for centre-based childcare facilities:

- (a) *operational or management plans or arrangements (including hours of operation);*
- (b) *demonstrated need or demand for child care services;*
- (c) *proximity of facility to other early education and care facilities;*
- (d) *any matter relating to development for the purpose of a centre-based child care facility contained in—*
 - i) *the design principles set out in Part 2 of the Child Care Planning Guideline; or*
 - ii) *the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

Accordingly, by virtue of Clauses 25 and 26 of the E-SEPP, certain provisions of PDCP 2014 are not relevant to the development. Notwithstanding, an assessment of PDCP2014 is provided in **Section 6.3.3** of this Letter, where relevant to the proposed modifications under this application.

6.3.3 Childcare Planning Guideline

The *Child Care Planning Guideline* ('the Guideline') establishes the assessment framework to deliver consistent planning outcomes and design quality for centre-based child care facilities in NSW.

Part 2 of the Guidelines establishes a series of Design Quality Principles relating to context, built form, adaptive learning spaces, sustainability, landscape, amenity and safety.



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Part 3 outlines Matters for Consideration which support the Design Principles and must be considered by the consent authority as part of any DA. Matters for consideration include (bolded for emphasis):

- Site selection and location
- Local character, streetscape and the public domain interface
- Building orientation, envelope and design
- Landscaping
- Visual and acoustic privacy
- Noise and air pollution
- Hours of operation
- **Traffic, parking and pedestrian circulation**

Part 4 of the Guideline relates to applying the National Regulations to development proposals, including with respect to the internal and external environment. A National Quality Framework Assessment Checklist is also included.

Detailed consideration of these matters were carried out under the parent application **DA20/0581**. **Table 4** below provides an assessment of the proposed modifications against the relevant traffic, parking and pedestrian considerations of the guideline.

Table 4. Child Care Planning Guideline Assessment Table	
Principles and Considerations	Assessment
3.8 Traffic, Parking and Pedestrian Circulation	
<i>Objective: To provide parking that satisfies the needs of users and generated by the centre.</i>	
<i>Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</i>	For childcare centres, PDCP2014 requires 1 space/10 children + 1 space/employee. This would result in a requirement for 33 spaces.
<i>Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:</i>	However, the <i>RMS Guide to Traffic Generating Developments</i> ('the RMS Guide') and the <i>Child Care Planning Guideline</i> ('the Guideline') establish a car parking ratio of 1 space/4 children (and no additional requirement for staff). This would result in a requirement for 27.5 spaces.
<i>Within 400 metres of a metropolitan train station:</i>	The net loss of spaces resulting from the footprint of the childcare centre together with the allocation of parking to the childcare centre in accordance with the DCP or RMS rates was considered to be within acceptable limits as demonstrated by consent granted under DA20/0581 .
<ul style="list-style-type: none">▪ 1 space per 10 children;▪ 1 space per 2 staff. Staff parking may be stack or tandem parking with no more than 2 spaces in each tandem space.	The adoption of the DCP rates for the childcare centre resulted in a shortfall of 2 spaces under the parent consent DA20/0581 .
<i>In other areas:</i>	The reconfiguration to the car park will result in the addition of one (1) car parking space to the wider Site. In this regard, the reconfiguration of the carpark is considered to be an overall improved outcome for the Site.
<ul style="list-style-type: none">▪ 1 space per 4 children.	
<i>A reduction in car parking rates may be considered where:</i>	
<ul style="list-style-type: none">▪ the proposal is an adaptive re-use of a heritage item;▪ the site is in a B8 Metropolitan Zone or other high density business or residential zone;▪ the site is in proximity to high frequency and well connected public transport;▪ the site is co-located or in proximity to other uses where parking is appropriately provided (for example	



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Table 4. Child Care Planning Guideline Assessment Table	
Principles and Considerations	Assessment
<p><i>business centres, schools, public open space, car parks); and,</i></p> <ul style="list-style-type: none"> ▪ <i>there is sufficient on street parking available at appropriate times within proximity of the site.</i> 	
<p><i>In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</i></p>	<p>Whilst this policy focuses on the availability of on-street parking, it is considered reasonable for consideration to be offered to the suitability of the Home Co car park for servicing the childcare centre (also noting that childcare drop-off/pick-up times would differ from peak times for Home Co). The acceptability of this arrangement is confirmed per development consent granted under DA20/0581.</p>
<p><i>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</i></p> <ul style="list-style-type: none"> ▪ <i>the amenity of the surrounding area will not be affected; and,</i> ▪ <i>there will be no impacts on the safe operation of the surrounding road network.</i> 	<p>The parent application was accompanied by a TIA which was supported by Council under the consent granted by DA20/0581. Given proposed carparking layout changes, a TIA accompanies this application which demonstrated that the traffic and parking arrangements, as amended, would continue to suitably service the proposed childcare centre whilst not unacceptably impacting on the existing Home Co Centre, any other surrounding facilities, or the road network.</p>
<p>Objective: <i>To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</i></p>	
<p><i>Alternate vehicular access should be provided where child care facilities are on sites fronting:</i></p> <ul style="list-style-type: none"> ▪ <i>a classified road; and</i> ▪ <i>roads which carry freight traffic or transport dangerous goods or hazardous materials.</i> <p><i>The alternate access must have regard to:</i></p> <ul style="list-style-type: none"> ▪ <i>the prevailing traffic conditions; and</i> ▪ <i>pedestrian and vehicle safety including bicycle movements</i> ▪ <i>the likely impact of the development on traffic.</i> 	<p>The existing access arrangements to the broader Home Co site would continue to support safe and efficient access to the centre from the surrounding road network.</p> <p>The proposed reconfiguration of the car-parking layout would support the overall functionality of the existing carpark and improves the safety of vehicular and pedestrian access.</p>
<p><i>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</i></p>	<p>The existing access arrangements to the broader Home Co site would support safe and efficient access to the centre from the surrounding road network, including in the instance of an emergency.</p>
<p>Objective: <i>To provide a safe and connected environment for pedestrians both on and around the site.</i></p>	
<p><i>The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</i></p> <ul style="list-style-type: none"> ▪ <i>separate pedestrian access from the car park to the facility;</i> 	<p>The existing car park includes line-marked pedestrian paths and crossings. Directional signage within the carpark would encourage parents to drop-off and pick-up children in the designated area in immediate proximity to the childcare centre so as to avoid having to travel long distances through the far reaches of the carpark.</p>



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Table 4. Child Care Planning Guideline Assessment Table	
Principles and Considerations	Assessment
<ul style="list-style-type: none">▪ <i>defined pedestrian crossings included within large car parking areas;</i>▪ <i>separate pedestrian and vehicle entries from the street for parents, children and visitors;</i>▪ <i>pedestrian paths that enable two prams to pass each other;</i>▪ <i>delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities;</i>▪ <i>in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas; and,</i>▪ <i>vehicles can enter and leave the site in a forward direction.</i>	
<p><i>Mixed use developments should include:</i></p> <ul style="list-style-type: none">▪ <i>driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks;</i>▪ <i>drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or maneuvering areas used by vehicles accessing other parts of the site; and</i>▪ <i>parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</i>	<p>The drop-off/pick-up point as well as some areas of carparking would be situated directly adjacent to the childcare centre. Directional signage within the carpark would encourage parents to drop-off and pick-up children in the designated area in immediate proximity to the childcare centre so as to avoid having to travel long distances through the far reaches of the carpark.</p>
<p><i>Car parking design should:</i></p> <ul style="list-style-type: none">▪ <i>include a child safe fence to separate car parking areas from the building entrance and play areas;</i>▪ <i>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards; and,</i>▪ <i>include wheelchair and pram accessible parking.</i>	<p>The carparking area, as amended, has been appropriately designed in terms of safety, access and compliance with the relevant Australian Standards.</p> <p>The proposed reconfiguration, as amended, continues to comply with the relevant standards as demonstrated within Appendix 4.</p>

6.4 PENRITH LOCAL ENVIRONMENTAL PLAN 2010

The Site is subject to the provisions of PLEP 2010. As demonstrated within **DA20/0581**, the approved development was assessed against the relevant provisions of the PLEP 2010. The proposed modifications under this application do not alter previous compliance of the PLEP 2010.

Relevant provisions having regard to the proposed modifications are considered below.



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6.4.1 Zoning and Permissibility

The development, as modified, is consistent with the objectives of the B5 Business Development zone as it will continue to deliver a Centre-based childcare facility. Given the minor nature of the amendments sought under this application to the car-parking layout, the proposed modification does not result in any of the objectives of the zone being compromised. The development will continue to achieve these objectives to the same capacity as the Development Consent **DA20/0581**.



Figure 5. PLEP 2010 Zoning Map (Source: NSW Legislation, 2021)

6.4.2 Development Standards

The numerical standards approved under **DA20/0581** remain unchanged by the proposed modifications, given the proposed modifications relate only to a reconfiguration of the car-parking layout.

7 NON-STATUTORY PLANNING FRAMEWORK

7.1 Penrith Development Control Plan 2014

The PDCP2014 supports the PLEP2010 and sets out Penrith City Council's objectives and development controls within the local government area. The development, as modified, does not alter previous compliance with the PDCP 2014.

Table 5 below provides an analysis of relevant criteria only.



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Table 5. PDCP2014 Provisions and Assessment	
PDCP2014 Control	Provision Applicable to Site and Assessment
Chapter C10 Transport, Access and Parking	
Car parking	<p>The original application under DA20/0581 considered traffic and parking impacts to both the childcare and a change of use DA assessed concurrently by Council for tenancy T5 per DA20/0351. As approved under DA20/0581, the wider development provided a shortfall of two (2) car-parking spaces relevant to the co-located uses within the Site and the PDCP 2014 requirements. It is noted that the DA for tenancy T5 has subsequently been withdrawn.</p> <p>As provided in the TIA at Appendix 4, the reconfiguration of the carpark improves on-site car-parking and results in one (1) additional space and an improved car parking outcome for the Site. Accordingly, in light of reduced impact of tenancy T5, the proposed modifications provide improved car parking outcomes for the Site.</p> <p>The design of the carpark has been assessed against the relevant BCA standards and as concluded by the TIA, suitable access, swept paths are provided by the amended layout.</p>

8 LIKELY IMPACTS OF DEVELOPMENT

8.1 Traffic and Transport

The modification application is accompanied by a TIA at **Appendix 4** which demonstrates the proposed reconfiguration to the carpark will result in one (1) additional space. This results in an overall improved outcome given the shortfall for the development will be one (1) space to the approved two (2) space shortfall under **DA20/0581**. This is primarily as a result of the withdrawal of the concurrent change of use for tenancy T5 under **DA20/0351**.

Additionally, the proposed changes to the carpark result in improved functionality including the provision of two (2) way traffic flow which allows for safer vehicular and pedestrian movement across the carpark.

In light of the above and conclusions reached within the accompanying TIA, the changes to the carparking layout are considered satisfactory and within acceptable limits.

8.2 Stormwater

The proposal, as modified, does not seek any alterations to the approved Stormwater Design under **DA20/581**. Notwithstanding, the application is accompanied by amended Stormwater Plans at **Appendix 3** to ensure the any impacts as a result of changes to parking were appropriately considered.

9 SUITABILITY OF THE SITE FOR DEVELOPMENT

The suitability of the subject site for the development has been established through the approval of **DA20/581**. The proposal, as modified, does not alter the nature of the development or its operations, such that it would become unsuitable for the subject site.



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10 CONCLUSION

This application seeks consent for modifications to development consent **DA20/581**, pursuant to Section 4.55(1A) of the EP&A Act. The proposal has been prepared after taking into consideration the following key issues:

- Development history of the subject site;
- Development Consent **DA20/581**;
- Site context and locality;
- Relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- Relevant statutory and non-statutory planning instruments.

The proposed modifications are considered acceptable, and worthy of support by Penrith City Council, for the following reasons:

- The proposed modifications reflect ongoing design refinements on behalf of the landowners and project team to ensure that the end development is responsive to the needs of the end users;
- The proposed modifications maintain compliance with the key development standards contained within PLEP2010 and PDCP2014; and,
- The development, as modified, will remain substantially the same, and will not result in additional environmental impacts.

In light of the above, the modifications proposed to development consent **DA20/581** are considered worthy of support by Penrith City Council.

Should you require additional information, please do not hesitate to contact the undersigned.

Yours faithfully,

Andrew Cowan
Director
Willowtree Planning Pty Ltd

