

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0417
Proposed development:	Demolition of Existing Structures and Construction of a Centre-Based Child Care Facility catering for 78 Children, 12 Staff, 20 Car Parking Spaces and Associated Works
Property address:	97 Victoria Street, WERRINGTON NSW 2747 99 Victoria Street, WERRINGTON NSW 2747
Property description:	Lot 16 DP 32158 Lot 17 DP 32158
Date received:	15 June 2021
Assessing officer	Lucy Goldstein
Zoning:	Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 9b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the Demolition of Existing Structures and Construction of a Centre-based Child Care Facility catering for 78x Children, 12x Staff, 20x Car Parking Spaces and Associated Works at 97 and 99 Victoria Street, Werrington.

Under the provisions of Penrith Local Environmental Plan 2010 (LEP), the subject site is zoned R3 Medium Density Residential, and the proposal is a permissible land use in the zone with consent.

Key issues identified during the assessment of the application include:

- Character, Built Form and Residential Amenity
- Front setback treatment, and provision of landscaping and deep soil areas
- Provision of Outdoor Area, Car Parking Design, Internal Layout and Solar Access
- Noise impacts
- Stormwater
- Basement design

Council staff issued an initial request for information letter in August 2021 and a further letter in October 2021. The proposal has undergone several design amendments to resolve matters raised by Council staff, as detailed in this report.

In accordance with Council's *Community Engagement Strategy 2019*, the application was notified and advertised to adjoining and nearby residences and publicly exhibited between 5 July 2021 to 19 July 2021. One (1) submission was received, with the main issues raised relating to traffic and parking. These matters have been addressed in the assessment.

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

Site & Surrounds

The subject site is legally described as Lots 16 & 17 DP 32158, commonly referred to as 97 & 99 Victoria Street, Werrington.

Location: The site is located on the northern side of Victoria Street, approximately 30m from its intersection with Gibson Ave. The site is situated west of Werrington Railway Station, being approximately 125m walking distance from the Railway Station. A bus stop also exists to the immediate west of the site.

Site Context: The surrounding area consists of predominately residential development, comprising a mix of low density (single cottages) and medium density development (townhouses, dual occupancies). There are small businesses scattered in the immediate vicinity within the residential area, including a convenience store, take away, real estate, medical centre and Australia Post. Rance Oval is located 90m to the east of the site.

Site Properties: The site is regular in shape with a total land area of 1,277m² and contains two single dwellings with granny flats. The site has a 30m frontage to Victoria St. The lot depth varies with No. 97 being 45m and No. 98 being 38m. The site is generally flat. Overhead power lines exist along the frontage of the site.

Proposal

The proposed development (as amended) includes:

- Demolition of existing structures and construction of a two storey child care centre, including basement parking for 20x cars, landscaping and associated drainage works;
- Ground floor includes 8x play rooms in two buildings and outside play areas;
- First floor includes an office, staff room, kitchen and toilet;
- Standard hours of operation from 7am to 6pm Monday to Friday are proposed with staff 'shoulder times' of 6:30am to 6:30pm;
- 78x children, consisting of the following age groups: 0-2 years = 8x children; 2-3 years = 30x children; and 3-5 years = 40x children
- Up to 12 staff;
- 20x car parking spaces within the basement, including one accessible space;
- Lift from basement to the ground floor lobby, which also has an entry from the street. The lift also provides access to the first floor staff area, as well as by stairs;
- Stormwater drainage is proposed via a pit and pipe system and on-site detention (OSD) tank;

Note: The application does not include any signage. No detailed signage designs were provided with the application, and as such any future signage will be subject to a separate development application, unless otherwise permitted under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. A condition of consent has been imposed to this effect.

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

- **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

The proposal is subject to Penrith City 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:

1% x \$2,244,707 (cost of works) = \$22,447.00

Accordingly, a condition of consent has been imposed requiring contributions as per the above rate.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

An assessment against the relevant criteria under *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* has been undertaken and a detailed discussion is provided below.

It is important to note that on 1 March 2022, the *SEPP (Educational Establishments and Childcare Facilities) 2017* was repealed, and the provisions of this former policy were consolidated into *SEPP (Transport and Infrastructure) 2021*. However, Schedule 9 of *SEPP (Transport and Infrastructure) 2021* contains savings provisions for childcare centre applications that were made but not finally determined before the commencement of the new policy (being 1 March 2022). The current application was made before the commencement of *SEPP (Transport and Infrastructure) 2021*, and as such the proposal has been assessed against the former *SEPP (Educational Establishments and Child Care Facilities) 2017*.

In this regard, Schedule 9 of *SEPP (Transport and Infrastructure) 2021* states that:

"(1) Chapter 3 [which applies to Educational establishments and childcare facilities] does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of Chapter 3.

(2) Despite subsection (1), before determining a development application referred to in that subsection for development for the purpose of a centre-based child care facility, the consent authority must take into consideration the regulatory requirements and the National Quality Framework Assessment Checklist set out in Part 4 of the Child Care Planning Guideline, in relation to the proposed development."

The application was lodged prior to the commencement of the policy (1 March 2022), and as such in accordance with Clause (1), the provisions of Chapter 3 of *SEPP (Transport and Infrastructure) 2021* do not apply in this instance. However, despite this, Clause (2) requires that the consent authority must consider the requirements of the National Quality Framework Assessment Checklist set out in part of the Childcare Planning Guideline in relation to the proposed development, which has occurred and is detailed below.

Clause 22 Centrebased child care facility- Concurrence of Regulatory Authority required for certain development

The proposal complies with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations. The proposal also complies with the outdoor space requirements under regulation 108 (outdoor unencumbered space requirements). The proposal provides 260m² of indoor

unencumbered space (253.5m² is required) and provides 555.25m² of unencumbered outdoor space (546m² is required). Accordingly, in this instance Clause 22 does not apply to the proposal and concurrence of the Regulatory Authority is not required.

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

Clause 23 requires that before determining a development application for development for the purpose of a centre based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline. An assessment was undertaken against the provisions of the Child Care Planning Guideline dated August 2017 and a detailed discussion is summarised below.

Child Care Planning Guideline (August 2017)

The proposal is consistent with Part 2 Design quality principles, Part 3 matters for consideration, and the National Quality Framework Assessment Checklist set out in Part 4, as detailed below.

Child Care Planning Guideline August 2017		
Part 3. Matters for Consideration		
Section	Objectives	Proposed
3.1 Site Selection and Location	<i>To ensure that appropriate zone considerations are assessed when selecting a site;</i>	The proposed use is a permitted land use in the zone with Council consent. The site is not identified as being affected by mainstream flooding, land slope, bushfires, coastal hazards and other environmental hazards. Located near a school, parks and neighbourhood shops, the proposal is near compatible social uses.
	<i>To ensure that the site selected for a proposed child care facility is suitable for the use.</i>	The site, which has an area of 1277m ² is of a sufficient size and width to accommodate the proposed centre-based child care facility. The application has demonstrated that the site is suitable in respect to environmental impacts, specifically acoustic, privacy and excavation impacts, and does not incur risks from environmental hazards i.e. contamination.
	<i>To ensure the site for child care facilities are appropriately located;</i>	
	<i>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.</i>	

3.2 Local Character, Streetscape and the Public Domain Interface	<i>To ensure that the child care facility is compatible with the local character and surrounding streetscape;</i> <i>To ensure clear delineation between the child care facility and public spaces;</i> <i>To ensure front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.</i>	The proposal provides an appropriate design response within the R3 Medium Density Residential zone, and contributes to the local area by being designed in character with the locality and existing streetscape. The pitched, recessive roof form, stepped upper floor and articulation features are reflective of the residential character of the street. The proposed palette of materials are compatible with the style of residential properties seen in the wider area, as is the recessive use of dark colours. The proposal complies with the prescribed building height standard under Penrith LEP 2010. The proposed setback and building design allows for good surveillance of the street. Clear delineation between the facility and the street is provided, along with a clear access path from the street to the legible entry. The location and design of parking areas (within a basement) is consistent with the character of the locality in which parking areas are located predominately behind the primary building line.
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3.3 Building Orientation, Envelope and Design	<i>To respond to the streetscape, while optimising solar access and opportunities for shade;</i> <i>To ensure that child care facilities are designed to be accessible by all potential users;</i> <i>To ensure that buildings are designed to create safe environments for all users.</i> <i>Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath</i>	The built form responds to the predominant built form, height and landscaped setbacks in the area to provide an acceptable streetscape, consistent with the transitioning area. The proposal responds to the site with minimal fill and sensitive design to minimise overshadowing to the neighbouring residential properties. Refer to the earthworks clause of the LEP discussion for further details. The proposed 9.1m setback within the front portion of the lot provides appropriate separation to the streetscape, with minor encroachments only. The facility is oriented to the north, including most of the external play areas to maximise solar access. Where possible, play equipment is located away from common boundaries, noting acoustic fencing is situated along the site's boundaries. The Operational management mechanisms within the Acoustic report will further manage outdoor play times and the number of children accessing outdoor areas at any one time to minimise acoustic impacts.
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3.4 Landscaping	<i>To provide landscape design that contributes to streetscape and amenity.</i> <i>Use the existing landscape where feasible to provide a high quality landscaped area by:</i> <i>- reflecting and reinforcing the local context</i> <i>- incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping</i>	A key issue raised in the assessment of the application was the provision of high quality landscaping, particularly within the front and rear setbacks of the site in order to integrate the facility into the streetscape and provide opportunities for natural shade over play areas. The proposal has been amended to pull in the basement from the front boundary to provide increased deep soil planting within the front setback area, and the landscape plan provides for three (3) canopy trees within the front of the site. A minimum 4m rear setback is provided (including basement) to provide for deep soil planting in the rear setback. To ensure a 'green corridor' and shade opportunities are provided at the rear of the site, a condition has been imposed to require five (5) additional canopy trees to be planted at the rear of the site to maximise the benefit of deep soil areas. Noting that there is minimal opportunity for planting within the landscaped area within the middle of the site, due to being above the basement. In considering the existing streetscape and future desired character, the proposed landscaping subject to conditions is sufficient to screen the proposal and improve the amenity of the site via high quality landscaping that incorporates local vegetation.
3.5 Visual and Acoustic Privacy	<i>To protect the privacy and security of children attending the facility;</i> <i>To minimise impacts on privacy of adjoining properties;</i> <i>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.</i>	The proposed development has been designed to minimise direct overlooking of indoor rooms and outdoor play spaces from public areas via appropriate site and building layout, blank walls for sections of the side boundaries, locating suitable windows and doors and the use of fencing and landscape works to side boundaries. The upper floor is small in size and centrally located to minimise overlooking. The development proposes appropriate fencing along the site's side boundaries to minimise acoustic impacts to neighbouring properties in addition to the measures in the operational management mechanisms within the acoustic report aforementioned. A play area has been proposed to the south facing Victoria Street, however a 2m wide landscape strip is proposed for screening of fencing and the play area from the street.

3.6 Noise and Air Pollution	<i>To adopt design solution to minimise the impacts of noise on the children;</i> <i>To ensure that outside noise levels on the facility are minimised to acceptable levels</i>	The subject site is not located close to railways lines or beneath flight paths. The site is located near railways lines to the south, however is separated by existing residential dwellings and a road. The play areas have been sited mostly to the north. Appropriate design measures have been undertaken including appropriate setbacks, use of landscaping and acoustic fencing to minimise acoustic impacts to neighbouring properties. The site is not located close to any industrial areas and is therefore not exposed to major sources of air pollution.
3.7 Hours of Operation	<i>Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays.</i>	Proposed operating hours are considered appropriate, being Monday to Friday 7:00am to 6:00pm.
3.8 Traffic, Parking and Pedestrian Circulation	<i>To provide parking that satisfies the needs of users and demand generated by the centre;</i> <i>To provide vehicle access from the street in a safe environment that does not disrupt traffic flows;</i> <i>To provide a safe and connected environment for pedestrians both on and around the site.</i>	Under Penrith Development Control Plan 2014, child care centres are required to provide 1 space per 10 children, plus 1 space per employee. The development proposes to employ 12 staff and provide for 78 children requiring 19.8 car spaces be provided on site. The proposal complies with this requirement with 20 parking bays being provided. Refer to DCP discussion. A separate pedestrian access path is provided from the street to the main entry and is also provided within the basement parking area to the lift.
PART 4. Apply the National Regulations to Development Proposals		

National Quality Framework Assessment Checklist	104- Fencing or barrier that encloses outdoor spaces	104- The proposed outdoor play areas are enclosed by child-proof fencing, and will be enforced via conditions of consent. 106- The proposal provides an onsite laundry room, located within the basement.
	106- Laundry and hygiene facilities	107- the proposal complies with the minimum unencumbered indoor space required as addressed under Clause 22 above
	107- Unencumbered indoor space	108- the proposal complies with the minimum unencumbered outdoor space required as addressed under Clause 22 above.
	108- Unencumbered outdoor space	109- the proposal provides toilet facilities in each playroom with associated hand wash basins.
	109- Toilet and hygiene facilities	110- the proposal will achieve adequate ventilation and solar access, noting the design of the building into two blocks, enables large glass doors to face the open play areas. The rear building is oriented north and will receive quality solar access.
	110 Ventilation and natural light	111-The proposal provides suitable administrative spaces, located at first floor.
	111- Administrative spaces	112- Nappy change facilities are shown on the plan, located within Playroom 8 and includes associated hand wash basin.
	112- Nappy change facilities	113- The proposal was accompanied by a Landscape Plan which shows landscape embellishment along front, rear and side boundaries. Conditions have been imposed to ensure suitably planting of canopy trees within play areas at the rear of the site.
	113- Outdoor space- natural environment	114- The play area within the middle of the site offers a large area of shaded play space, as a covered verandah is provided in this space, and the open grass area is likely to receive overshadowing by the buildings. The play area at the front of the site is south facing, and as such provision of shade in this area is less warranted. Notwithstanding, the proposed (3) trees along the front of the site will provide for some shade. Canopy tree planting within the rear of the site will provide opportunity for natural shade.
	114- Outdoor space- shade	115- the design facilities supervision, particularly noting the location of outdoor space between the building blocks facilities good supervision.
	115- Premises designed to facilitate supervision	

State Environmental Planning Policy (Infrastructure) 2007

Rail Noise & Vibration

The subject site is located approx 110m from the nearby rail corridor and separately by existing dwellings. The proposal does not trigger any requirements with respect to State Environmental Planning Policy (Infrastructure) 2007 in this regard.

Traffic Generating Development

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 relates to traffic generating development. The proposal does not trigger the requirements of Clause 104 or Schedule 3 of the SEPP.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

Consideration has been given to Clause 22 of the SEPP in relation to the proposal. In this regard, the objective of Clause 22 is to regulate the construction of wind turbines and wind monitoring towers on land within 30 kilometres of the Airport. Clause 22 of the SEPP prohibits certain works, including wind turbines. However, this form of works are not proposed by this application. As such, the proposal is considered satisfactory in regards to the requirements under the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020.

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.

The subject site has been used as two existing residential dwellings for a number of years. It is noted that aerial observation mapping has not identified any evidence of potential land contaminating activities or imported fill material. Further, the works proposed are unlikely to pose any land contamination risks.

Council's Environmental Management Officer reviewed the proposal and raised no objections in this regard. The proposal is satisfactory relative to Clause 7 of SEPP 55.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned R3 Medium Density Residential under the provisions of Penrith Local Environmental Plan 2010. The proposal, being a child care centre, is a permissible land use in the zone with Council consent.

Clause 2.3 Zone objectives

The objectives of the zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To enhance the essential character and identity of established residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposal is consistent with the zone objectives as the proposed childcare centre provides a service that meets the day to day needs of families residing in the area. The proposal will enhance the essential character and identity of the residential area, ensuring a high level of residential amenity is maintained through suitable design and landscape treatment.

Clause 4.3 Height of buildings

The proposed development is below the maximum height limit of 8.5m.

Clause 7.4 Sustainable development

Clause 7.4 states that *"in deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development based on a "whole of building" approach by considering each of the following—*

- (a) conserving energy and reducing carbon dioxide emissions,*
- (b) embodied energy in materials and building processes,*
- (c) building design and orientation,*
- (d) passive solar design and day lighting,*
- (e) natural ventilation,*
- (f) energy efficiency and conservation,*
- (g) water conservation and water reuse,*
- (h) waste minimisation and recycling,*
- (i) reduction of vehicle dependence,*
- (j) potential for adaptive reuse."*

The proposed landscaping (subject to conditions) is adequate to contribute to the amenity of the site and surrounds with compensatory trees, groundcover and shrubs provided. In addition, the design facilitates cross ventilation and the new building allows for a good design outcome in terms of energy efficiency. In this regard, the proposal satisfies Clause 7.4 in that the proposal incorporates design elements to increase energy efficiency, achieve natural ventilation, and reduce the consumption of natural resources.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
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 - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	Complies - see Appendix - Development Control Plan Compliance
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	Complies
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

The are no planning agreements applicable to the site or proposal.

Section 79C(1)(a)(iv) The provisions of the regulations

The proposal complies with the requirements of the Regulations subject to conditions, including requirements for compliance with the Building Code of Australia and fire safety requirements.

Section 79C(1)(b) The likely impacts of the development

Context and Setting

A streetscape and character analysis was undertaken as part of the application which showed that the two storey building and its design will complement existing features and form of buildings in the locality.

The proposed building has been designed to respect the location and siting of the surrounding residential area. The development provides a small first floor component, materials that take cues from the adjoining built forms and a combination of architectural features that reflect the residential character of the area. The building indents and suitable mix of materials reduce the overall visual mass of the building and prevents an attractive form as viewed from the public domain. In addition to the building's scale, the setbacks are also compatible with the adjoining residential dwellings. Appropriate landscaping will be provided along the front boundary, which will provide a visual screen.

Noise Impacts

The application was accompanied by an amended Acoustic Impact Assessment, which concludes that the noise emissions generated by the proposal will comply with relevant noise criteria. The Acoustic Impact Assessment report recommends operational and design mechanisms to ensure that the child care centre will operate in an acoustically compliant manner, which have been imposed as conditions of consent.

As such, the development (subject to conditions) is unlikely to result in adverse noise impacts on the surrounding locality, as discussed below:

- The proposal includes provision of an acoustic barrier along site boundaries. The acoustic barrier height has been reduced around the boundary of the property. To mitigate the reduction in acoustic barriers, outdoor play areas around the boundary of the property have been changed into quiet play areas with playground 'stage' and 'waterplay' activities relocated to the centre of the playground. Activities such as gross motor skill activities including running and climbing will not be conducted in that portion of the playground that is adjacent to a residential boundary.
- Outdoor play area 1: outdoor slide has been removed, reducing noise levels of play projected onto adjacent property. The architectural plans show timber decking at the front of the Centre to be at ground floor level. The proposed acoustic barrier is considered effective.
- Outdoor play area 2: waterplay area relocated to the center of the property, a storage shed placed adjacent to 101 Victoria Street which prevents children playing close to the resident's boundary fence line. Noise projected to the adjacent resident will be reduced as a result of the amended design.
- Outdoor play area 3: slide has been removed to reduce play noise levels for adjoining residents
- Outdoor play area 4: amended outdoor play area behind 82 Albert Street elevated stage removed and direction of slide changed. This reduces the noise level and noise projection direction away from Albert Street residents. Conditions have been included to ensure that noise levels indicated in the Acoustic Report, Plan of Management actions relating to outdoor play numbers and dealing with noise complaints are complied with.

It is noted that Council's Environmental Management Officer has reviewed the amended application including updated Acoustic Impact Assessment, and raised no objections to the proposal subject to conditions.

Overshadowing & Amenity

Throughout the assessment, overshadowing and amenity impacts have been considered extensively and changes made to the proposal to achieve an improved outcome. It is noted that Section 2.4.9, Part D2 of Penrith DCP states that any proposed development provide a minimum of 4 hours sunlight between 9am and 3pm on 21 June, to living zone of any adjoining dwellings and a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of any adjoining dwellings. In situations where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduced sunlight to the specified areas by more than 20%. The neighbouring dwellings will receive sufficient solar access in accordance with the above DCP requirements.

Traffic, Access and Parking

The application was accompanied by a Traffic and Parking Impact Assessment which found that the volumes of traffic generated by the development are unlikely to result in any considerable impacts to the local road network. It is noted that Council's Traffic Engineer reviewed the proposal and advised that the local road network has adequate capacity to cater for the traffic volumes generated by the development.

The development proposes to provide 20x parking spaces including one accessible parking space complying with the rates specified in Penrith Development Control Plan 2014. Council's Development Engineer has reviewed the amended application, and raised no objections subject to conditions, and providing the following comments:

- The amended architectural plans have reduced the parking aisle width from 6.812m to 6.029m opposite spaces 12 to 16. This is below the AS2890.1 minimum of 6.1m for a single sided aisle (5.8m + 0.3m clearance). It is recommended a minimum 6.1m aisle width is provided and compliance with AS2890.1 has been conditioned.
- The proposed split driveway arrangement appears unnecessary and the driveways should be combined to a single driveway complying with AS2890.1. The proposed 'no right turn' sign is not permitted within the verge and should not be used to limit access to individual properties. A condition has been imposed requiring a combined 6m vehicle crossing.

Stormwater

Council's Development Engineer has reviewed the proposal in terms of stormwater management and raised no objections subject to conditions, and providing the following comments:

- A condition has been imposed regarding the provision of suitable erosion and sediment controls during the construction phase.
- A restriction on the Use of Land and Positive Covenant will be required to protect the basement pump out system.
- The Geo-technical Report indicates a water table at 4.8m to 5.5m below ground level (subject to seasonal and climatic conditions). As such, the 3.3m deep basement excavation will generally be above the water table, thus subsoil drainage is permitted.
- A condition has been recommended to limit the stormwater discharge to 25L/s for the 10% AEP and ensure outlets are spaced at a minimum 15m.

Socio-Economic Impacts

Council's Social Strategy Officer reviewed the application and raised no objection from a social planning perspective. Childcare centres are an important component of urban development, providing a facility for parents and carers that supports employment, economic activity and community participation. The subject site is situated within close proximity to a bus stop, Werrington Railway Station and Werrington Public School, allowing the centre to be easily accessed by a variety of people. The proposed development provides an accessible car parking space and lift access.

Section 79C(1)(c)The suitability of the site for the development

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use.
- The use is compatible with surrounding/adjointing land uses.
- The grade of the site is suitable for the design proposed.
- The site is able to drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Council's Community Engagement Strategy 2019, the application was notified and advertised to adjoining and nearby residences and publicly exhibited from 5 July 2021 to 19 July 2021. One (1) submission was received, which is addressed in the following table.

Issue Raised	Comment
<i>Traffic & Parking:</i> - Due to traffic and parking issues, the number of children should be reduced. - 20x car parking spaces is insufficient. - Area should be set aside for drop off/pick up. - Minimal on street parking available on Victoria Street between Gibson Ave & Parkes Ave due to villas, bus stops, post office and doctors. - Traffic flow on Victoria St increased dramatically in last 7 years. Victoria St used as a short cut for heavy vehicles.	As detailed in the body of this report, the application has demonstrated that the site is suitable to accommodate the proposal as amended. In this regard, the proposal provides sufficient onsite car parking within the basement to service the facility, complying with the required car parking rate under Penrith DCP 2014. The basement has been designed to accommodate both staff and visitor parking. The proposal allows for vehicles to safely enter the basement for drop off and pick ups within the allocated car parking spaces. There is no requirement for a drop off/pick up area. Further, for long day care centres such as proposed, the drop off and pick ups are spread over a few hour period in the morning and afternoon and not concentrated as for short day care centres. The amended application was accompanied by a Traffic and Parking Impact Assessment, which has been reviewed by Council's Traffic Engineer and found to be satisfactory. The Traffic and Parking Impact Assessment indicates that the surrounding road network is capable of accommodating proposal.

Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Social Planning	No objections

Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this proposal against the relevant environmental planning policies, primarily being State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, State Environmental Planning Policy No. 55 - Remediation of Land, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposed development, the proposal is in the public interest, and there is likely to be negligible impacts arising from the proposed development. Therefore, the application is recommended for approval.

Recommendation

That Development Application DA21/0417 for the Demolition of Existing Structures and Construction of a Centre-based Child Care Facility catering for 78x Children, 12x Staff, 20x Car Parking Spaces and Associated Works at 97 and 99 Victoria Street, Werrington be approved, subject to the following conditions.

General

1 A001

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

Drawing Title	Drawing No	Prepared By	Dated
Site Plan / Demolition	A02.01 Issue C	Art Made Architects	3/2/22
Basement Floor Plan	A03.01 Issue D	Art Made Architects	3/2/22
Ground Floor Plan & Fence / Barrier Diagram	A03.02 Issue E	Art Made Architects	3/2/22
First Floor Plan	A03.03 Issue B	Art Made Architects	14/2/22
External Elevations	A04.01 Issue C	Art Made Architects	14/2/22
Sections, External Finishes & Fence Details	A05.01 Issue C	Art Made Architects	3/2/22
Landscape Plan	LD01, Revision 2	Earth Matters Consulting	4/2/22
Plant Palette & Elements	LD02, Revision 2	Earth Matters Consulting	4/2/22
Civil Design For Proposed Development at 97-99 Victoria Street, Werrington, NSW	Reference no. 21502, Revision 3	Greenview Consulting	3/9/21

Supporting Documentation:

- Acoustic Report prepared by Day Design, dated 3/9/21
- Traffic Report prepared by Stanbury Traffic Planning, Rev 5, dated September 2021
- Plan of Management, dated May 2021
- Geotechnical Report prepared by Alliance, dated 10 June 2021

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 an Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of the 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 issuing of the occupation certificate and operation of the business.

5 A026 - Signage

This consent does not approve signage. A separate development application for the erection of a sign or advertising structure, other than signage permitted under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, is to be submitted to Penrith City Council, complying with the requirements of Section C9-'Advertising and Signage' under Penrith Development Control Plan 2014.

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

The approved operating hours of the Childcare Centre are as follows:

- 7:00am to 6:00pm, Monday to Friday.
- Staff are permitted onsite during 'shoulder times' of 6:30am to 6:30pm, Monday to Friday.
- Closed on Public Holidays.

Any staff onsite outside of core operating hours are not to generate noise which is considered to be a nuisance or is readily audible from neighbouring dwellings.

Deliveries and waste collection services are only to occur between the hours of 7:00am to 6:00pm weekdays.

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

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

8 [A Special - Capacity](#)

A maximum of 78x children are to be enrolled, and attend the premises, at any one time, comprising the following:

- 8x children aged between 0-2 years;
- 30x children aged between 2-3 years; and
- 40x children aged between 3-5 years.

9 [A Special - Childproof fencing](#)

Fencing of outdoor play areas and entrance to the centre are to be childproof. Details in this regard shall be shown on the Construction Certificate plans.

10 [A Special - Fencing and retaining walls](#)

Any fencing and boundary retaining walls required as a result of this development shall be constructed as full cost to the persons benefiting from this consent. Retaining walls permitted by this consent shall be of masonry construction.

Fencing/acoustic barriers to be provided in accordance with the stamped approved 'Ground Floor Plan & Fence Barrier Diagram', and as outlined below:

- (a) Fencing along the front boundary is to be no taller than 1.5m and have perspex backing to minimise visual impacts on the streetscape.
- (b) Fencing along side boundaries that is forward of the building is to be no taller than 1.5m.
- (c) Fencing along side and rear boundaries is to be no taller than 2.1m (inclusive of cantilevered perspex).

11 [A Special - Operating License](#)

The child care centre operator is required to obtain an operating licence from the NSW Department of Education and Communities prior to operation of the child care centre. The child care centre is to comply with the requirements of the Education and Care Services National Regulation at all times under the Education and Care Services National Law.

Demolition

12 B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE

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.

All demolition works are to be conducted in accordance with AS/NZS 2601-2001 The Demolition of Structures, including the completion of a Hazardous Building Materials Assessment.

Prior to commencement of demolition works, a Hazardous Building Materials Assessment is to be submitted to Council. The associated investigations are required to be carried out to assess the location, extent and condition of Hazardous Building Materials including but not limited to the following:

- Asbestos
- Synthetic mineral fibres (SMF)
- Polychlorinated Biphenyls (PCBs)
- Lead-containing paint
- Ozone depleting substances
- Lead dust in ceiling cavities

The Assessment is to provide general recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues.

During demolition works, the approved Hazardous Building Materials Assessment must be complied with at all times.

At the completion of demolition works, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

13 B003 - Asbestos

Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2017*
- *SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019, and the*
- *SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019, and*
- *Australian Standard AS2601-2001 The demolition of structures*

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014.

Prior to commencement of demolition works, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifier is to be satisfied that the person employed to undertake the works is a licensed asbestos removal contractor who has a current WorkCover Asbestos License. All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

14 B004 - Dust

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

15 **B005 - Mud/Soil**

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

16 **B006 - Hours of work**

Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

Environmental Matters

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

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained 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.

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. 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.

18 **D003 - Fencing protection to part of site or adjoining property**

Before any works are commenced on site, adequate fencing with star picket and wire fencing shall be installed to ensure that the adjoining area premises are not disturbed by the construction/demolition works or earthworks.

19 **D005 – No filling without prior approval**

No fill material is to be imported to the site without the prior approval of 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.

20 **D009 - Covering of waste storage area**

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

21 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

22 **D013 - Approved noise level 1**

Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application.

Prior to the issue of the Occupation Certificate, a Compliance Certificate is to be obtained from a qualified acoustic consultant certifying that the building, including acoustic fencing and mechanical plant and equipment, has been constructed and installed to meet the noise criteria in accordance with the Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd.

The Compliance Certificate is to be submitted to and approved by Council.

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

23 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the receiver of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

24 **D Special - Acoustic compliance report**

Twelve (12) months after the issue of the Occupation Certificate, an Acoustic Compliance Report is to be submitted to and approved by Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities on the site and the level of compliance with the noise criteria set within the 'Environmental Noise Impact Assessment' (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified

25 **D Special - Implementation Plan of Management during Operation**

The operational controls detailed in the approved Plan of Management and in Section 8.1 of the 'Environmental Noise Impact Assessment (REF7227-1.1R Rev A dated 3/9/21) prepared by Day Designs Pty Ltd are to be implemented during operation of the Centre to ensure compliance with the noise criteria established.

The Plan of Management is permitted to be periodically reviewed and updated so as to improve management practices, but cannot be amended to remove practices already contained in the Plan if those amendments result in a watering down of responsibilities. Penrith City Council is to be informed of any proposed changes to the Plan of Management before they are endorsed and is to be given a minimum of 14 days from that notice being given in which to make comments to the proposed changes.

Any changes to the Plan of Management must ensure that the recommendations of the Acoustic Assessment are maintained.

26 **D Special - Noise complaints relating to the operation of the Centre**

In the event of substantiated, 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.

27 **D Special - Noise requirements**

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.

A public contact number is to be displayed on the signage and this phone line is to be operational during business hours. A complaint register is to be maintained and must include complaint details and any actions taken to address those complaints. A copy of the complaint register is to be provided to Council upon request.

28 **D Special - Unexpected Finds**

Should any unexpected finds in relation to land contamination be found during the excavation of the site, works are to immediately cease and the Certifying Authority and Penrith City Council are to be notified. An investigation is to be undertaken by an appropriately qualified and practicing environmental consultant in accordance with State Environmental Planning Policy No 55 (Remediation of Land). Works will not be able to commence until the site is cleared by the environmental consultant and the Certifying Authority and Penrith City Council are notified.

BCA Issues

29 **E001 - BCA compliance**

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).

30 E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

Health Matters and OSSM installations

31 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 AS4674-2004 *Design, Construction and Fitout of Food Premises*.

The following requirements (but not limited to) are brought to your attention and shall be complied with:

(a) Hand basins in the kitchen and bottle preparation area must be 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 installed 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. Hand basin in the kitchen and bottle preparation area is to be used for the sole purpose of hand washing.

(b) A hand basin must be located within the toilet cubicle. Hand basins must be 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.

(c) Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.

(d) 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.

(e) 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.

(f) 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.

(h) 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.

(i) The ceiling in the preparation, service and scullery areas 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.

(k) Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

(l) All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

(m) The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.

(n) The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

(o) 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:

(i) 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.

(ii) 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.

(iii) 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 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

(p) All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

32 **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 Australian Standard AS1668 Parts 1 & 2.

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 2000 mm above floor level.

Prior to the issuing of an Occupational 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 Australian Standard AS1668 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.

33 **F037 - Temperature control**

Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

34 **F042 - Dishwasher**

Dishwashing/glass washing machines must have capacity for utensils and equipment to undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

35 **F049 - Storage cabinets**

All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.

36 **F050 - Light bulbs & tubes**

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

37 **F051 - Shelving**

Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

38 F056 - Storerooms

The storeroom must be constructed in accordance with AS4674-2004 by providing the following:

- A smooth, even, non-slip floor surface.
- Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, 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. "Feather edge skirting" and non-rebated coving are not permitted.
- Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning.
- The ceiling 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 intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted.
- Shelving or storage racks must be designed and constructed to enable easy cleaning.

39 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.

40 F059 - Waste storage – cleaning

Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.

Bins, hoppers and other containers used for storing garbage or recyclable material shall be:

- a) constructed of impervious material such as metal or plastic; and
- b) have tight fitting lids
- c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

Utility Services

41 G002 - Section 73

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.

42 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.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

44 [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 the 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 is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, 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 Occupation Certificate has been issued for the development.

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 the 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.

46 **H036A - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

The rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

47 **H036B - Rainwater Tank (Also impose H037, H038, H039, G005 & Q010)**

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted prior to the issue of the Occupation Certificate.

Engineering

48 **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.

49 **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.

50 K202 - S138 Roads Act - Minor Works in the Public Road

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings).
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice. A single 6m wide vehicle crossing shall be provided.

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

51 K210 - Stormwater Management

The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Greenview Consulting, reference number 210502, revision 3, dated 03.09.21.

Prior to the issue of any Construction 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) Policy. Kerb outlets shall have a minimum 15m spacing with a maximum discharge rate of 25L/s for the 10% AEP storm event.

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 a Construction Certificate.

52 K211 - Stormwater Discharge - Basement Car Parks

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 Plumbing and Drainage – Stormwater Drainage.

53 K222 - Access, Car Parking and Manoeuvring - General

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS2890.6.

54 **K226 - Basement Geotechnical Testing**

Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Roads and Maritime Services.

55 **K228 - Dilapidation Report**

The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

56 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

57 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval have been inspected and signed off by Penrith City Council.

58 **K503 - Works As Executed - Stormwater Management**

Prior to the issue of any Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifier.

59 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the basement pump out systems:

- 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, and;
- 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.

60 **K505 - Restriction on the Use of Land and Positive Covenant**

Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the basement pump out systems shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

61 **K601 - Stormwater Management System Operation and Maintenance**

The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

62 **K Special - Amendments to car space allocation**

The plans accompany the Construction Certificate application are to be amended to reflect the following:

- car space #19 is to be allocated as a visitor space, and
- car space #12 is to be allocated as a staff space.

The Principal Certifier is to ensure that the above amendments have been incorporated into the construction certificate plans, prior to the issue of a Construction Certificate.

63 **K Special - Australian Standards**

All car parking and manoeuvring must be in accordance with AS2890.1-2004; AS2890.6-2009 and Council's requirements.

64 **K Special - Sight Lines**

The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

65 **K Special - Vehicles to exit/enter in forward direction**

All vehicles are to enter/exit the site in a forward direction.

66 **K Special- Car Spaces**

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.

Landscaping

67 **L001 - General**

Prior to the issue of a Construction Certificate, a revised landscape plan shall be submitted to and approved by Penrith City Council incorporating the following details:

- Additional planting of 5x canopy trees of a suitable species and a minimum 75L pot size located within the deep soil area at the rear of the site, as marked in red on the landscape plan; and
- Natural turf is to be provided along the frontage of the site;
- The driveway colour is to be a medium to light to reduce heat absorption; and
- Detailed design of any shade structures. The materials proposed for shade structures and any proposed slide shall be included in accordance with AS 4685 'Playground equipment and surfacing'.

All landscape works are to be constructed in accordance with the approved landscape plan (as approved under this condition) and the relevant provisions of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, 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.

68 **L002 - Landscape construction**

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

69 **L003 - Report requirement**

On completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. This report shall be prepared by a suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

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 Council's 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 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

Development Contributions

73 **N001 - Section 94 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$22,447.00 is to be paid to Penrith City 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 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 Development Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

In addition, given that the proposed cost of carrying out the development is greater than \$750,000, a cost summary report is provided by a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors in accordance with Section 3.2.3 of Council's Section 7.12 Contributions Plan for Non-Residential Development. The cost summary report is also required prior to the issue of a Construction Certificate.

Certification

74 **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:

- (a) 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
- (b) 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 81A 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 81A of the Environmental Planning and Assessment Act 1979.

75 **Q06F - Occupation Certificate (Class 2 - 9)**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

In accordance with Clause 26(1)(d)(ii) of the Educational Establishments SEPP, the provisions of the Child Care Planning Guideline generally take precedence over a DCP, other than for building height, side and rear setbacks and car parking rates. Notwithstanding, matters not addressed within the Child Care guidelines are addressed below.

C1 Site Planning and Design Principles

Safety and Security (Principles of Crime Prevention Through Environmental Design - CPTED)

The proposal has been assessed as satisfactory with regard to the principles of CPTED and includes safety and security features applicable to the use of the site as a childcare centre. The design does not include areas where concealment or crime is likely to occur and includes a visible pedestrian entry foyer from the street. The entry foyer is centrally located and is provided with a visual connection to the stairwell and lift to the basement parking and the pedestrian pathway. Windows are provided to the street frontages from the admin/entry areas providing opportunity for passive surveillance. Public/private boundaries are adequately reinforced via the proposed landscaping.

Maximising Access and Adaptability

The proposal provides one (1) accessible car space in the basement and lift access to the first and second floor. The proposal was accompanied by An Access Report, and a condition of consent has been included require the development to be carried out in accordance with the Access Report.

C3 Water Management

Water Quantity

The proposed design of the On-Site Stormwater Detention (OSD) system complies with Council's 'Stormwater Drainage Specification for Building Developments' Policy. Council's Development Engineer reviewed the proposal and raised no objections subject to conditions of consent.

C5 Waste Management

The proposed waste collection in the basement. The storage, management and collection is proposed by a private contractor, not Council. As such, provided the dimensional storage is suitable to meet the needs of the development and collection is suitable having regard to road rules, the arrangement as proposed is considered supportable.

C6 Landscape Design

Council requires that all landscape designs promote best practice Environmentally Sustainable Development Principles such as the use of low maintenance, drought tolerant native or endemic species and the use of drip irrigation or the like, to reduce water consumption. There is adequate room within the front and rear setbacks for planting.

C10 Transport, Access and Parking

Under Penrith Development Control Plan 2014, child care centres are required to provide 1 space per 10 children, plus 1 space per employee. The development proposes to employ 12 staff and provide for 78 children, thus requiring 19.8 (rounded to 20) car spaces be provided on site. The proposal complies with this requirement with the provision of 20 parking bays.

The proposal also includes stacked car parking spaces for staff. The stacked parking arrangement is proposed to be managed under the parking plan of management that was submitted, whereby staff are allocated the tandem spaces based on their expected arrival and departure times. This is acceptable given the scheduling of shifts and spaces can be allocated at the same time. It is noted that Council's Development Engineer and Traffic Engineer have reviewed the amended design and information and found it to be satisfactory.

D2 Residential Development

Noting that the site is zoned R3 Medium Density Residential, the controls under Chapter D2, which relate to residential development, have been considered in assessing the suitability of the proposal in terms of compatibility with the surrounding residential character.

D2.1.2 Setbacks and Building Envelope

Penrith DCP requires that a front setback is the average front setback distance of the two adjoining properties, or a minimum 5.5m whichever is the greater distance be provided. The adjoining property to the east of the site provides a front setback of approximately 9.1m, which is consistent with the dwelling to the west. The dwelling to the east is setback further. As such, the front setback control has been considered on merit. The properties along Victoria St provide deep, landscaped front setbacks. The front setback, in conjunction with the development's overall scale and built form and landscaping is considered compatible with the streetscape.

In accordance with 2.1.2 B 1. d), the side setbacks to external walls should be a minimum of 900mm and the objective is to reflect the character of established garden suburbs, provide for establishment of vegetation and reasonable separation between buildings and provide a high level of visual and acoustic privacy for residents and neighbours in dwellings and private open space.

The proposed side setbacks vary across the levels proposed. The ground floor is 1m setback and the upper level outdoor play area is setback significantly and sited in the centre of the site to provide large setbacks from the front, side and rear boundaries. These setbacks are beyond the numeric requirement and allow for adequate landscaping to blend with the area and maintain amenity for neighbours.

D5 Other Land Uses

D5.2 Child Care Centres

As per the Educational Establishments and Child Care Facilities SEPP and associated Child Care Planning Guideline, the relevant DCP controls relate to building height, side and rear setbacks and car parking rates. These matters have been discussed elsewhere in this appendix under Section C10 Transport, Access and Parking (car parking rates) and Section D2 Residential Land Uses (side and rear setbacks) and under Clause 4.3 Height of Buildings of Penrith LEP 2010.