

Form

Legislated Requirements Merit Track

AssessmentASSESSMENT REPORT

ASSESSMENT OFFICER:

APPLICATION NUMBER: 201629661

BLOCK: 9 SECTION: 3

DIVISION: HAWKER

Proposal is to add child care centre to the list of uses in the Crown lease

Zone: PRZ2 Restricted Access Recreation Zone

The Planning and Development Act 2007

This document provides analysis of a development proposal in the Merit Track in relation to the legislated requirements of the Planning and Development Act 2007 (the Act), specifically Section 119 and Section 120.

Planning and Development Act 2007 - Section 119

In deciding a Merit Track development application, the decision maker must ensure the application meets the following four items numbered S119 (1)(a) to (c) and S119 (2). Approval of an application in the Merit Track must not be given unless the application meets the Section 119 requirements.

S119 (1)(a) The relevant code NB: Refer to form Territory Plan Code Requirements Merit Track to complete this question	The relevant code(s) for the development proposal are:	
	Precinct Code:	Hawker Precinct map and code
	Development Code:	Parks and Recreation Zone Development Code
	General Code:	Parking and Vehicular Access General Code
	Other (if app):	
		Lease Variation general code
	Community and rec facilities location guidelines general code	
The proposal is consistent with the above code(s) for reasons identified in <u>Form – Territory Plan Code Requirements – Merit Track</u> .		

<p>S119 (1)(b) Any land management agreement for the land (for proposed development relating to land comprised in a rural lease)</p>	<p>The proposal is not for a proposed development relating to land comprised in a rural lease.</p>
<p>S119 (1)(c) the advice of the Conservator of Flora and Fauna in relation to the proposal (if the proposed development will affect a registered tree or declared site)</p> <p>NB: In accordance with Section 119(3)(a), the application must not be approved unless the approval is consistent with the advice of the Conservator of Flora and Fauna in relation to a proposal that will affect a registered tree or declared site.</p> <p>NB: Section 119A may affect the operation of this section for proposals relating to Light Rail. Assessment should be included here where relevant. Section 119A does not apply to a proposal involving a protected matter. In most cases it cannot be used for a DA subject to an ESO.</p>	<p>The proposal is not for a proposed development that will affect a registered tree or declared site.</p>

<p>S119 (2) Consistency with advice given by an entity to which the application was referred under division 7.3.3 of the Act.</p> <p>NB: Under Section 119 (2) of the Act, development approval must not be given for a development proposal in the merit track if approval would be inconsistent with any advice given by an entity to which the application was referred under division 7.3.3 unless the person deciding the application is satisfied that –</p> <p>(a) the following have been considered:</p> <ul style="list-style-type: none"> (i) any applicable guidelines; (ii) any realistic alternative to the proposed development, or relevant aspects of it; and <p>(b) the decision is consistent with the objects of the Territory Plan</p> <p>NB: Section 119A may affect the operation of this section for proposals relating to Light Rail. Assessment should be included here where relevant. Section 119A does not apply to a proposal involving a protected matter. In most cases it cannot be used for a DA subject to an ESO.</p>	<p>The decision is not inconsistent with any advice given by an entity to which the application was referred under division 7.3.3 of the Act.</p>
---	---

Planning and Development Act 2007 - Section 120

In deciding a Merit Track development application, a decision maker must consider the following six items numbered S120 (a) to S120 (g).

S120 (a) Zone Objectives	<p>The development is proposed to take place in the RRZ2 restricted access recreation zone.</p> <p>The application meets all relevant objectives of the zone</p>
S120 (b) Suitability of the Land	<p>The proposed development seeks approval to use the land or a building or structure of the land for the purpose(s) of a child care centre.</p> <p>The proposed use is listed as an assessable development in the PRZ2 zone development table, and is therefore determined to be a permissible use for the land.</p> <p>The proposed development is not in accordance with the provisions of the Crown Lease, however the proposal is to vary the lease to include child care centre as a permissible use.</p> <p>The land is suitable for the development proposed provided the conditions of approval regarding contamination can be satisfied..</p>
S120 (c) Environmental Significance Opinion	<p>An Environmental Significance Opinion (ESO) is not in force for the development proposal</p>

<p>S120 (d) Representations</p>	<p>Representations received are addressed in the Notice of Decision.</p> <p>Major issues raised include:</p> <ul style="list-style-type: none"> • A letter of no objection for the proposal from the Belconnen bowling club; • The PRZDC provides rules and criteria for non sporting uses – although child care is not specifically listed, it is assumed it should have been included. • The vicinity to the bowling club. The indicative plans show the proposed child care immediately adjacent to the Belconnen Bowling Club. • The tennis facilities should be protected for possible future use. • The application does not provide any evidence or reason for the need of a lease variation.
<p>S120 (e) advice given by an entity in accordance with section 149 of the Act</p> <p>NB: Under Section 150 of the Act, if entity advice is not received within 15 working days, the entity is taken to have given advice in support of the application.</p>	<p>Entity advice received is addressed in the Notice of Decision.</p> <p>Comments provided by the referral entities include:</p> <ul style="list-style-type: none"> • Comments of support from ICON and ACTEW • Comments of no comment from education, strategic planning • Comments conditionally supporting the proposal and providing advise • Comments of no support from TAMS due to the additional driveway proposed.
<p>S120 (f) the plan of management for the land (if the proposed development relates to land that is Public Land)</p>	<p>The proposal is not for a proposed development relating to land that is public land.</p>
<p>Proposal for development on land reserved under S315 for the purpose of wilderness area, national park, nature reserve, or special purpose reserve.</p>	<p>The proposal does not occur on land that is reserved under S315 of the Act for the purpose of wilderness area, national park, nature reserve, or special purpose reserve.</p>

S120 (g) the probable impact of the proposed development, including the nature, extent and significance of probable environmental impacts.	Based on the matters to be considered by the relevant Code there are no probable environmental impacts of significance associated with the proposed development.
Site Inspection (Although not a legislative requirement as such, a site inspection may assist with the assessment of the proposal against the provisions of S120)	No site inspection was required as sufficient evidence could be derived from other assessment methods.



Form

Territory Plan Code Requirements Merit Track

ASSESSMENT REPORT

PRZ2

ASSESSMENT OFFICER: Karen walker

APPLICATION NUMBER: 201629661

BLOCK: 9 SECTION: 3

DIVISION: HAWKER

Proposal is to add child care to the lease as a permissible use

Territory Plan Code Requirements

This document provides analysis of a development proposal in relation to the relevant codes contained in the Territory Plan. The proposal meets all rules of the code(s) that are relevant to the development with the exception of those either identified in the statement against relevant criteria submitted for the proposal or, listed in the tables below. The statement against relevant criteria demonstrates the proposal meets all relevant criteria that are, either:

- the applicable criterion to a relevant rule that is not met; or,
- the criterion is relevant and there is no applicable rule,

with the exception of those listed in the tables below.

1. Assessment of Compliance with Parks and recreations zone development code

The Parks and recreations zone development code is a Code relevant to this proposal. The comments for the criterion or rule identified below are provided to clarify why a particular criterion or rule is either met, not met, or not relevant.

Part A

Element 1 Restriction on Use

Not relevant as child care centre is not one of the listed uses. However the use of child care will be a use in addition to the tennis centre which would comply with the criteria.

The indicative plans provided with the application demonstrate it is possible for both the child care and tennis centre to coexist and operate from the site.

Element 2 Building and site controls – Not relevant as there is no building work proposed

PART B

Element 1 Restrictions on use

The proposal meets the requirements of the Community and recreation Facilities Location General Code see assessment against this code above.

There is no approved plan of management

A major utility installation is not proposed

Element 2 Building and site controls

Subdivision and demolition is not proposed
The block is not subject NCP requirements

Element 3 Built form

There is no building work proposed as part of this application.

Element 4 Parking and site access

TAMs was referred the proposal and raised no issues with regards to traffic generation
An indicative plan provided with the proposal demonstrates it is possible for a child care centre to operate from the site and comply with the parking and access general code.
Further information was submitted showing an alternative arrangement which shows the existing access being utilised, TCCS has supported this proposal providing advice for the applicant if they were to submit a proposal to construct the child care centre on the site using this access.

Element 5 Amenity

Will become relevant if a design and siting application is submitted.

Element 6 environment

Block is not subject to heritage requirements
A phase 1 contamination report was submitted with the application that suggests An intrusive subsurface investigation to determine the extent (if any) of potential contamination at the site targeting the unknown filling is required. This will be included as a condition of approval.
Remaining rules and criteria will become relevant if a design and siting application is submitted.

Element 7 services

Proposal was referred to the relevant service providers. The comments received have been incorporated into the decision.

2. Assessment of Compliance with Hawker Precinct Map and Code

The **Hawker Precinct Map and Code** is a Code relevant to this proposal. The comments for the criterion or rule identified below are provided to clarify why a particular criterion or rule is either met, not met, or not relevant.

There are no provisions in the precinct map and code that are relevant to this block.

3. Assessment of Compliance with Community and Recreation facilities location guidelines General Code

The **Community and recreation facilities location guidelines General Code** is a Code relevant to this proposal. The comments for the criterion or rule identified below are provided to clarify

why a particular criterion or rule is either met, not met, or not relevant.

Block is within 500 metres of a major work route road (Belconnen way)

There are no correctional facilities in the vicinity

Block is separated from the busy road (Belconnen way), there are no industrial uses in the vicinity

There is no evidence of any safety hazards in the vicinity

There are recreational facilities on the block and the adjoining blocks and in the immediate vicinity

The block and the indicative plans show a child care centre adjacent to a bowling club. Social separation from the club use has been demonstrated as the carpark entrance to the club is from a different street to the child care centre and also socially separated with the use of the existing landscaping.

4. Assessment of Compliance with Parking and Vehicular Access General Code

The Parking and Vehicular Access General Code is a Code relevant to this proposal. The comments for the criterion or rule identified below are provided to clarify why a particular criterion or rule is either met, not met, or not relevant.

Indicative plans show it is possible for onsite parking to comply with the vehicle access and parking general code.

5. Assessment of Compliance with Lease Variation General Code

The **Lease Variation General Code** is a Code relevant to this proposal. The comments for the criterion or rule identified below are provided to clarify why a particular criterion or rule is either met, not met, or not relevant.

Element 1 variation general

Varied lease will be consistent with relevant TP codes, see assessment against relevant codes above.

The land is suitable for the proposed use of child care provided there is no contamination. Conditions regarding contamination have been included in the decision and must be satisfied before the approval can take effect.

Element 2 variations to increase rights

Not relevant as no existing rights are proposed to be increased.

Element 3 variations to add uses general

Sufficient car parking can be provided see assessment against parking code above.

TAMS was referred the proposal and supported the application following the submission of further info.

Contamination conditions are to be included in the decision any approval will not take effect until those conditions are cleared.

There is not excepted to be any odour or light emissions from the block. This can be further assessed if an application for design and siting is submitted.

Element 4 Variations to add particular uses.

See assessment against community facilities code above

Proposal for a secondary residence is not included.

PART B not applicable as proposal was correctly lodged in the merit track.

NOTES for decision

Include contamination conditions

Include advice from TCCS regarding using the existing access and future DA's



ACT
Government

Environment and
Sustainable Development

Checklist

DA Assessment and Decision Peer Review

ASSESSMENT OFFICER: *Karen Walker*
 REVIEWING OFFICER: *Owen Pankhurst*
 APPLICATION NUMBER: *201629661*
 BLOCK: *3* SECTION: *9*
 DIVISION: *Hauker*

1 Purpose

The purpose of this checklist is to assist an Environmental and Sustainable Development Directorate (ESDD) Officer to undertake the correct process for undertaking a peer review for a DA assessment and Notice of Decision. The peer review is not a re-assessment of the development application.

2 Checklist

Item	Completed (Yes / No / Not Applicable)	Comment
Conflict of Interest declared	<i>No</i>	
Legislated requirements Assessment	<i>Yes</i>	
Territory Plan Assessment (justification provided were necessary against relevant Rules and Criterion)	<i>Yes</i>	

Checklist
DA Assessment and Decision
Peer Review

Item	Completed (Yes / No / Not Applicable)	Comment
Internal Referral to MPRG, EPC, DAP	N/A	
Entity advice recorded and addressed in NoD	yes	
Written Representations recorded and addressed in NoD	yes	2
Leasing input provided for NoD	NA	
Key assessment issues have been addressed in the NoD	yes	
Correct classification to make the decision	yes	
Is there any suggestion of an improper influence on the assessment or decision making for the DA	No	

Reviewing Officer

30/9/16

3 Record of Peer Review

When completed, the Case Officer shall scan and save this checklist in the Objective assessment folder for the Development Application.