



Minto Planning Services

Town Planning Consultants

1st November 2021

The General Manager
Northern Beaches Council
725 Pittwater Road
DEE WHY 2099

Dear Sir/Madam

**SECTION 4.56 MODIFICATION - CENTRE BASED CHILDCARE CENTRE
727 WARRINGAH ROAD, FORESTVILLE
DA 2018/0697**

I refer to the subject application and on behalf of the applicant, Warringah Road Developments P/L, application is hereby made pursuant to Section 4.56 of the Environmental Planning & Assessment Act 1979, as amended, for the modification of the subject consent.

By way of background, it is advised that Land & Environment Court Appeal No. 2018/00282754 was approved on the 3rd May 2019 and granted consent to DA No. 2018/0697 which approved demolition works and construction of a centre-based childcare facility for a maximum of 146 children, subject to a number of conditions.

Modification Application No. 2020/0575 was approved on the 2nd February 2021 and granted consent to a modification related to the footpath and dedication of land within the adjoining road reserve.

This application is to be read in conjunction with the following documentation:

- Revised Architectural Plans prepared by Liquid Design, Project No. 3318 and dated 5/10/21.
- List of Changes prepared by Liquid Design and dated 11/10/21.
- Revised Landscape Plans prepared by Urban Landscape Projects and date d31/8/21.
- Access Report prepared by AED Group, Report No. 8245 (Access) – Rev 02 and dated 22/9/21.
- BCA Compliance Statement prepared by AED Group, Report No. 8245 (BCA) – Rev 02 and dated 22/9/21.

Modifications Proposed by this Application

This application seeks approval for the modification of the approved Centre-based Child Care Facility as detailed on the accompanying Revised Architectural & Landscape Plans.

The modifications provide for the following:

REF ON PLAN	CHANGE	REASON
A2000 – PROPOSED GROUND FLOOR (Same comments for A2100)		
01	Pedestrian walkway widened	<i>Easier and safer access to the centre from the car park.</i>
02	Planter near the entry amended	<i>The planter was turned into a wedge shape to provide easier access to the entry doors.</i>
03	Entry doors re-arranged to provide an air lock entry. Sliding doors provided.	<i>Safer access and egress so children can't exit directly into the car park</i>
04	Extent of excavation increased at the rear of the ground floor.	<i>Excavation has been rationalised based on Geotechnical and Structural Engineering advice.</i>
05	Lift and Stairs relocated to the opposite side of the lobby.	<i>Provide better circulation and access into and out of the centre</i>
06	Pram parking room created	<i>Provide more organised approach to pram parking on the site</i>
07	MSB & Comms area re-configured. Electrical Board and Solar Inverter Boards added	<i>Coordination with services engineers</i>
08	Hydraulic Room added to the plan	<i>Coordination with services engineers</i>
09	Garbage Room re-configured to add space for storage, maintenance, and bulk waste. Bins changed from 25x 660L bins to 12x 1100L MGB's.	<i>Due to the nature of the garbage (nappies, waste food etc) the operators will have a garbage contractor who will remove garbage twice a week.</i>
10	Bicycle Parking shown adjacent to the western fire exit	<i>Provide parking for bicycles</i>
11	Safety Equipment located on the Western side of the Car Park. Equipment includes the Fire Pump, DFL, Hydrant Booster Assembly, and the cold-water metre. The space will have a fenced enclosure.	<i>Safety and Compliance</i>
12	Rainwater Tank and Onsite Detention Tank are shown as per the Engineer's Design	<i>Coordination with civil engineers</i>
13	Motorbikes relocated to the East Side of the car parking	<i>Better circulation to the garbage room and structure.</i>
14	Front of the Eastern Fire Stair moved North	<i>Compliant Internal Circulation</i>
15	Signage relocated from the approved Corten landscape element to new vertical sleeper element.	<i>More effective entry signage and coordination with the Landscape Plans</i>
16	New vertical timber sleeper element to replace the Corten Steel element in the site frontage	<i>Adjustment to a more residential look and feel for the site. Coordination with the Landscape Plans</i>
17	Timber arbour over the Pedestrian Entry with sign attached	<i>Better signage and separation of the pedestrian entry to the property to discourage people walking through the vehicular entry.</i>
A2001 – PROPOSED LEVEL 1 (Same comments for A2101)		
18	Hyd Pumps and Booster equipment will have a fenced enclosure.	<i>Safety and Compliance</i>
19	Extent of excavation increased at the rear of the ground floor.	<i>Excavation has been rationalised based on Geotechnical and Structural Engineering advice.</i>
20	Staff Room and external Respite space relocated from Level 2 (approved design) to Level 1 (CL4.56 Modification)	<i>Better separation for the staff and access to back of house spaces</i>
21	Staff toilet and Laundry relocated from Level 2	<i>Back of House spaces consolidated</i>
22	New storerooms shown	<i>More serviceability to the centre</i>
23	Lift and Stairs relocated to the opposite side of the lobby.	<i>Provide better circulation and access into and out of the centre</i>
24	School Readiness (formerly OOSH) entry re-configured	<i>Improved safety</i>

25	Junior Toilets Consolidated	<i>More serviceable toilet arrangement</i>
26	Consolidated store room	<i>Additional storage</i>
27	Front wall of the fire stair moved forward	<i>Compliance</i>
28	Façade Material Amended from Curtain Wall with Corten elements to Vertical Aluminium Battens (Timber Finish)	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
29	Steel Post and Beams changed to Timber Finish	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
A2002 – PROPOSED LEVEL 2 (Same comments for A2102)		
30	Rear windows to Room 02 re-configured	<i>Better Access to views</i>
31	Cot rooms removed from Room 02	<i>Operator uses stackable beds for the children that can be stored when not in use</i>
32	High level windows lowered to provide natural light to the craft area	<i>Better access to natural light</i>
33	Nappy Change & Toilet layout amended	<i>Improved circulation and utility of the space</i>
34	Air Conditioning units will be in the alcoves	<i>Coordination with services engineers</i>
35	High Level windows removed	<i>Not required in the sleeping space</i>
36	Area of Room 01 amended	<i>More accurate to the number of children allocated to that room</i>
37	Front wall of the fire stair moved forward	<i>Compliance</i>
38	Front Balcony Removed from the Design	<i>Not required as the staff spaces are now located on Level 1</i>
39	Reception Area and Directors Office Relocated	<i>Operators wish to give more space to the lobby/entry</i>
40	Kitchen Relocated	<i>Kitchen is in the 'public' side of the security area.</i>
41	Alcove in the front façade was made deeper	<i>Improve the façade articulation and make the building look more like 2 pavilions</i>
42	Lift and Stairs relocated to the opposite side of the lobby.	<i>Provide better circulation and access into and out of the centre</i>
43	Relocate the accessible toilet and parents' toilets	<i>Better back of house function</i>
44	Relocate programming room	<i>Better back of house function</i>
45	Remove the metal façade element	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
46	Flat Roof over the fire stairs	<i>Improved buildability</i>
47	Hydrants allowed for in fire stairs	<i>Compliance</i>
A2005 – PROPOSED ROOF (Same comments for A2105)		
48	Roof over Rooms Pitched up towards the South (opposite direction to the approved roof)	<i>Operators didn't want North sunlight in the space</i>
49	Concrete Roof removed and Replaced with Metal Roof	<i>More efficient construction</i>
50	Polycarbonate roofing removed and external walkway roof part of the metal roofing	<i>Better heat performance and shading</i>
51	Kitchen exhaust relocated	<i>Relocated with the kitchen</i>
52	Level 1 roof changed to metal sheeting	<i>More efficient construction</i>
53	Lift Relocated	<i>Better circulation below</i>
54	Steel Post and Beams changed to Timber Finish	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
55	Point removed	
A3000 – PROPOSED NORTH/SOUTH ELEVATION (Same Comments A3500 DETAILED ELEVATION PROPOSED NORTH/SOUTH)		
56	Approved Corten Finish Replaced with: TI-01 – Vertical Timber Sleepers in the Landscaped Area near the front	<i>The change to a timber finish looks more residential in the context of the site.</i>

	boundary TI-02 – Aluminium Battens (Timber Look Finish)	<i>Aluminium battens were required as they are non-combustible.</i>
57	Level 2 finish has been amended to a painted weatherboard finish	<i>The updated finish fits better with the residential context</i>
58	Timber has been removed from the external walls. In these locations it has been replaced with render finish.	<i>Non-combustible finish</i>
59	Signage Relocated from the left (east) side of the driveway to the Right (west) side.	<i>The signage will be more visible to vehicles entering the centre</i>
60	Timber arbour over the Pedestrian Entry with sign attached	<i>Better signage and separation of the pedestrian entry to the property to discourage people walking through the vehicular entry.</i>
61	Façade Material Amended from Curtain Wall with Corten elements to Vertical Aluminium Battens (Timber Finish)	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
62	1200 high solid wall with vertical battens and glazing over in front of the Level 1 open space	<i>Enables more flexible use of the space, better acoustic performance and low-level shading.</i>
63	In the middle of the building on levels 1 & 2. Smaller windows on a wall that is set in further than the approved wall	<i>Increased building articulation to break down the mass of the building. Smaller windows for better thermal performance of the North façade.</i>
64	Changes to the window layout in Level 2	<i>To match the relocated director's office and reception</i>
65	Relocated Lift	<i>Provide better circulation and access into and out of the centre</i>
66	Roof over Rooms Pitched up towards the South (opposite direction to the approved roof)	<i>Operators didn't want North sunlight in the space</i>
67	Rear windows to Rooms re-configured	<i>Better Access to views</i>
A3001 – PROPOSED EAST/WEST ELEVATION (Same Comments A3501 & A3502)		
68	Signage Relocated from the left (east) side of the driveway to the Right (west) side.	<i>The signage will be more visible to vehicles entering the centre</i>
69	New vertical timber sleeper element to replace the Corten Steel element in the site frontage	<i>Adjustment to a more residential look and feel for the site. Coordination with the Landscape Plans</i>
70	Timber arbour over the Pedestrian Entry with sign attached	<i>Better signage and separation of the pedestrian entry to the property to discourage people walking through the vehicular entry.</i>
71	Safety Equipment located on the Western side of the Car Park. Equipment includes the Fire Pump, DFL, Hydrant Booster Assembly, and the cold-water metre. The space will have a fenced enclosure.	<i>Safety and Compliance</i>
72	Façade Material Amended from Louvre elements to Vertical Aluminium Battens (Timber Finish)	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
73	Timber has been removed from the external walls. In these locations it has been replaced with render finish.	<i>Non-combustible finish</i>
74	Level 2 finish has been amended to a painted weatherboard finish	<i>The updated finish fits better with the residential context</i>
75	Roof over Rooms Pitched up towards the South (opposite direction to the approved roof)	<i>Operators didn't want North sunlight in the space</i>
76	High level windows lowered to provide natural light to the craft area	<i>Better access to natural light</i>
77	High Level windows removed	<i>Not required in the sleeping space</i>
78	Air Conditioning units will be in the alcoves	<i>Coordination with services engineers</i>
A4000 – PROPOSED SITE SECTION		
79	Signage Relocated from the left (east) side of the driveway to the Right (west) side.	<i>The signage will be more visible to vehicles entering the centre</i>
80	New vertical timber sleeper element to replace the Corten Steel element in the site frontage	<i>Adjustment to a more residential look and feel for the site. Coordination with the Landscape Plans</i>

81	Timber arbour over the Pedestrian Entry with sign attached	<i>Better signage and separation of the pedestrian entry to the property to discourage people walking through the vehicular entry.</i>
82	Safety Equipment located on the Western side of the Car Park. Equipment includes the Fire Pump, DFL, Hydrant Booster Assembly, and the cold-water metre. The space will have a fenced enclosure.	<i>Safety and Compliance</i>
83	Façade Material Amended from Louvre elements to Vertical Aluminium Battens (Timber Finish)	<i>Amended to assist the building fit in better with the residential nature of the area.</i>
84	Timber has been removed from the external walls. In these locations it has been replaced with render finish.	<i>Non-combustible finish</i>
85	1200 high solid wall with vertical battens and glazing over in front of the Level 1 open space	<i>Enables more flexible use of the space, better acoustic performance and low level shading.</i>
86	Level 2 finish has been amended to a painted weatherboard finish	<i>The updated finish fits better with the residential context</i>
87	Roof over Rooms Pitched up towards the South (opposite direction to the approved roof)	<i>Operators didn't want North sunlight in the space</i>
88	Extent of excavation increased at the rear of the ground floor.	<i>Excavation has been rationalised based on Geotechnical and Structural Engineering advice.</i>
89	Lift and Stairs relocated to the opposite side of the lobby.	<i>Provide better circulation and access into and out of the centre</i>
90	Entry doors re-arranged to provide an air lock entry. Sliding doors provided.	<i>Safer access and egress so children can't exit directly into the car park</i>
A9300 – SHADOW DIAGRAMS		
91	Orange area shows the additional shadows	
92	Blue Area shows the approved shadows.	
LANDSCAPE PLANS		
93	Updated landscape. Refer to landscape plans	<i>Updated design for the operator's requirements</i>

In summary, it is advised that the changes are proposed primarily for the following reasons:

1. So as to address engineering and geotechnical considerations.
2. So as to provide for improved operational functions and layout for the facility.
3. So as to provide for compliant circulation and servicing.
4. So as to provide for the better separation of front and back of house aspects of the development.
5. So as to provide for an improved and more sympathetic external appearance for the development.
6. So as to provide for improved shading and thermal properties.
7. So as to provide for improved access to natural light and outlook.

The proposal does not seek to modify the operational aspects of the development in relation to hours of operation, number of children, teachers or parking spaces.

The application seeks approval for the modification of Condition 1A of the Modified consent in relation to the approved plans.

There are no other changes proposed as part of this application.

Impacts of the Proposal

It is my opinion that the proposed modifications sought by this application will not result in any detrimental impacts upon the streetscape of the locality, the character of the surrounding area or upon the amenity of adjoining property owners.

In forming this opinion, it is noted that:

1. The proposal does seek approval to increase the height, bulk and scale of the approved building.
2. The proposal does not reduce the setbacks of the approved building from the site boundaries.
3. The proposal does not seek approval for any amendment to the number of approved childcare places or carparking spaces.
4. The development, when viewed from the public domain, will appear as substantially the same development.
5. The proposal will remain substantially the same development as that which was originally approved by the Court.
6. The proposal will continue to provide for a compliant area of unencumbered indoor play area.
7. The proposal will continue to provide for a compliant area of unencumbered outdoor play area.
8. The proposal will not result in any unreasonable impacts upon adjoining properties.

Section 4.56 – Modification by consent authorities of consents granted by the Court - Environmental Planning & Assessment Act 1979, as amended

Section 4.56 of the Environmental Planning & Assessment Act 1979, as amended, permits an applicant to seek approval for the modification of a development consent in the following circumstances:

(1) *Modifications involving minimal environmental impact*

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

- (b) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (1A) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

In response to the requirements of Section 4.56(1)(a) of the Act it is submitted that the proposal will remain substantially the same development for which consent was originally granted.

In forming this opinion, it is submitted that:

- The proposal will remain a centre-based childcare facility.
- The proposed development will have a built form which is largely the same as the approved development.
- The proposal will continue to provide for 146 child care places.
- The proposal will not reduce the number of car parking spaces provided upon the site.
- The proposal will not result in any additional external impacts.

Section 4.15(1) of the Environmental Planning & Assessment Act 1979

The following assessment is provided against the requirements of Section 4.15(1) of the Act.

Environmental Planning Instruments – Section 4.15(1)(a)(i)

The proposed development remains permissible with the consent of the Council under the provisions of both the Warringah LEP 2011 and SEPP (Educational Establishments and Child Care Facilities) 2017.

The proposal will remain compliant with the numerical standards of the LEP in relation to height of building.

The proposal will remain compliant with Clause 25 of the SEPP (Educational Establishments and Child Care Facilities) 2017 in relation to unencumbered indoor and outdoor play space.

The proposal will continue to provide for car parking in accordance with the requirements of the Council.

The proposal is therefore considered to remain consistent with the determination of the Court dated 3rd May 2018 in relation to DA 2018/0697 and therefore should be supported by Council.

Draft Environmental Planning Instruments – Section 4.15(1)(a)(ii)

It is not considered that there are any Draft Environmental Planning Instruments applicable to the proposal.

Development Control Plans – Section 4.15(1)(a)(iii)

The proposal is considered to remain compliant with the requirements of Council's DCP except where they were previously varied by the Court granted consent. The proposal does not seek to increase the extent of any variation.

Impacts of the Development – Section 4.15(1)(b)

It is my opinion based upon the findings of this report and the accompanying documentation that there will not be any unreasonable impacts resulting from the proposal.

This is particularly the case in relation to impacts upon the streetscape, adjoining properties and existing and proposed landscape character.

Suitability of the Site – Section 4.15(1)(c)

It is my opinion that the suitability of the site for this form of development has previously been demonstrated through the granting of the original consent.

It is therefore considered that in the absence of any unreasonable impacts attributable to the proposal that the site is suitable for the modified development as proposed.

Public Interest – Section 4.15(1)(e)

It is my opinion that the proposed development is in the public interest as it will ensure that the provision of high quality child care is provided upon the site in a manner which is compliant with all applicable controls.

It is not considered that the proposed modifications will result in any adverse impacts upon adjoining properties or the locality.

Summary

In summary, it is my opinion that the modifications proposed by this application will result in development substantially the same as that previously approved by the Court and will not result in any unreasonable impacts.

Accordingly, it is considered that the proposed modification of the approved development as detailed within this submission is worthy of the support of the Council.

It is requested that should you have any queries regarding this matter that you do not hesitate to contact me to discuss.

Andrew Minto
DIRECTOR
MINTO PLANNING SERVICES PTY LTD
Graduate Diploma (Urban & Regional Planning), Associate Diploma (Health & Building Surveying). MPIA.