



**ACT**  
Government  
Education and Training

Re: Development of an education and care centre at Block 18, Section 11, Mitchell ACT.

To whom it may concern

This letter is to advise that Children's Education and Care Assurance has made an assessment of Block 18, Section 11, Mitchell ACT and gives 'in principle' support to the variation of the Crown lease to add the use 'education and care centre' to the purpose clause.

The site is located in close proximity to green belt buffer zones with established trees and the adjacent properties are currently occupied by low intensity businesses. If an education and care centre is constructed on this site it would provide a convenient facility for workers in the local area.

This endorsement is provided for purposes of the lease variation and does not provide any assurance that an education and care service built on this block will be approved to operate.

Children's Education and Care Assurance has also made an assessment of the design proposal for the development of an education and care centre on this site. The planning arrangements proposed in the drawings are considered to have met the current regulatory requirements and the proposed arrangement is endorsed in principle.

This endorsement is provided for the design as documented on the plans provided and does not remove the requirement for the facility to undergo a formal review of completed works prior to approval and operation.

If you require any additional information please contact me on 62071093.

Yours sincerely

[Redacted Signature]  
Susan Sullivan  
Manager  
Children's Education and Care Assurance  
19 October 2015



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Yours sincerely



Susan Sullivan  
Manager  
Children's Education and Care Assurance  
19 October 2015



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

File Ref: New file



Dear [REDACTED]

**COMMENT ON PRELIMINARY SITE INVESTIGATION REPORT -  
BLOCK 18 SECTION 11 MITCHELL GUNGAHLIN**

Environment Protection has reviewed the report titled "Preliminary Site Investigation, Block 18, Section 11, Mitchell, ACT" dated 6 November 2015 by [REDACTED]

Environment Protection has assessed the report and supports the findings that "[REDACTED] consider the Site to be currently unsuitable for the proposed child care facility."

As a result of these findings Environment Protection is not in a position to recommend to the Environment Protection Authority (EPA) that he support the lease variation for the site at this time.

Prior to the EPA making a determination as to the suitability of the site, from a contamination perspective, for the proposed uses under the lease variation further assessment of the site must be undertaken by a suitably qualified environmental consultant.

Any future assessment must make specific comment on the suitability of the site for the proposed uses under the lease variation.

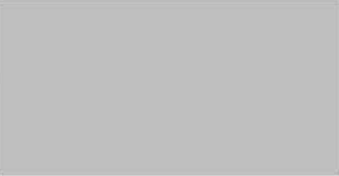
The findings of future assessments must be reviewed and endorsed by the EPA prior to the site being used for other purposes.

All future assessment, remediation and audit of the site must be in accordance with the guidelines endorsed by the Environment Protection Authority.

Yours sincerely



Manager, Contaminated Sites  
Construction, Environment and Workplace Protection  
10/11/2015



**Block 18  
Section 11  
Mitchell  
Lease Variation  
Report**

PREPARED FOR



**Prepared By:** [REDACTED]

[REDACTED]

**Ph:** [REDACTED]

**Email:** [REDACTED]

[REDACTED]

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CONTENTS

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- 1 PROPERTY INFORMATION.....4
- 2 EXISTING CROWN LEASE CLAUSES .....5
- 3 PROPOSED LEASE VARIATION .....5
- 4 IZ2 – MIXED USE ZONE DEVELOPMENT TABLE .....6
- 5 CONCLUSION.....7

## 1 PROPERTY INFORMATION

Site Identifier	Block 18 Section 11 Mitchell
Site Address:	1-9 Heffernan Street Mitchell
Owner/Lessee	[REDACTED]
Site Area	1685m <sup>2</sup>
Lease commenced	23 July 2007
Lease duration	99 years
Deposited Plan	4865
Easements	none
Concessional	no
Variations on the CT	none
Current Use	Vacant land
Proposal	To add 'Community use LIMITED to child care centre' to the Crown lease purpose clause.
Land Use Policy:	IZ2: Industrial Mixed Use
Precinct/Development, General Codes and Overlays	Industrial Zones Development Code Mitchell Precinct Map Gungahlin District Precinct Map and Code Parking and Vehicular Access General Code Community and Recreation Facilities Location Guidelines General Code Lease Variation General Code No other overlays identified.

### 1.1 BACKGROUND

The Crown lease for this block was granted on 23 July 2007 for the purpose as set out in Item 2 of this report. Despite exhaustive attempts to find a suitable tenant for this block, with the existing lease purpose clause, have failed. The lessee has now been approached by a child care operator who is interested in operating from this location. The block has been identified as being a very attractive location for this use, being on a main route between the rapidly growing Gungahlin and the City and beyond. Despite being located within an area identified as industrial, the block is sufficiently buffered from any existing or potential industrial uses, as will be demonstrated in the documents accompanying this application. It will also be demonstrated that the use of child care centre on this site will not limit the ability of surrounding properties to utilise their assets to the fullest extent, whether operated under their current uses or by adding any of the uses allowed under the IZ2 development code. Bearing in mind that the vicinity is fully developed and, in some cases, properties have been unit filled, which would not allow for the current uses to be modified from the uses shown in the attached spreadsheet.

The proposal is for a Lease Variation only, that seeks to alter the purpose clause of the Crown lease and does not propose any physical development on the site. The subsequent construction of a child care centre would require a further Development Application for design and siting in order to activate the use sought.

## 4 IZ2 – MIXED USE ZONE DEVELOPMENT TABLE

The IZ2 Industrial Development Table identifies those activities which are permissible within the Mixed Use Zone subject to a development application in the Merit track.

ancillary use	minor road
bulk landscape supplies	minor use
bulky goods retailing	municipal depot
car park	NON RETAIL COMMERCIAL USE
caretaker's residence	outdoor recreation facility
club	parkland
communications facility	pedestrian plaza
COMMUNITY USE	plant and equipment hire establishment
consolidation	public transport facility
craft workshop	recyclable materials collection
defence installation	recycling facility
demolition	restaurant
development in a location and of a type identified in a precinct map as additional merit track development	scientific research establishment
drink establishment	service station
emergency services facility	SHOP
freight transport facility	sign
funeral parlour	store
general industry	subdivision
indoor entertainment facility	temporary use
indoor recreation facility	transport depot
industrial trades	vehicle sales
light industry	veterinary hospital
liquid fuel depot	warehouse
major road	waste transfer station
MAJOR UTILITY INSTALLATION	

The Development Table also identifies a range of activities which are prohibited in the zone. This has not been replicated here for reasons of brevity as none of those uses which have been identified as prohibited, are proposed. None of the relevant zone, code or precinct maps identify any activities which are specifically permissible or prohibited on the subject site.

## 2 EXISTING CROWN LEASE CLAUSES

The existing purpose clause reads as follows:

COVENANT DESCRIPTION	COVENANT DETAIL
3(e) Purpose	<p>"To use the premises for one or more of the following purposes:</p> <ul style="list-style-type: none"> <li>(i) funeral parlour;</li> <li>(ii) light industry;</li> <li>(iii) non retail commercial use LIMITED to office;</li> <li>(iv) shop; and</li> <li>(v) vehicle sales</li> </ul> <p>PROVIDED ALWAYS THAT the maximum gross floor area for any supermarket or shop selling food shall not exceed 200 square metres;"</p>

## 3 PROPOSED LEASE VARIATION

The proposal is to vary the purpose clause to include 'Community use LIMITED to child care centre' in the range of uses available on this block.

Subject to approval by EPD, it is suggested that the amended purpose clause read as follows:

COVENANT DESCRIPTION	COVENANT DETAIL
3(e) Purpose	<p>"To use the premises for one or more of the following purposes:</p> <ul style="list-style-type: none"> <li>(i) community Use LIMITED to child care centre;</li> <li>(ii) funeral parlour;</li> <li>(iii) light industry;</li> <li>(iv) non retail commercial use LIMITED to office;</li> <li>(v) shop; and</li> <li>(vi) vehicle sales</li> </ul> <p>PROVIDED ALWAYS THAT the maximum gross floor area for any supermarket or shop selling food shall not exceed 200 square metres;"</p>

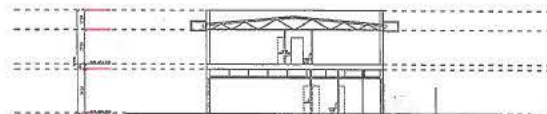
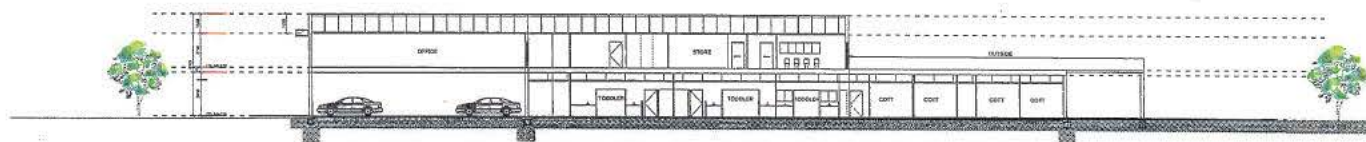
## 5 CONCLUSION

This application is for a lease variation to add Community Use LIMITED to child care centre' to the existing purpose clause.

The proposed new use is an assessable use within the Industrial Mixed Use Zone.

The following further supporting documents in relation to the lease variation application have been submitted separately:

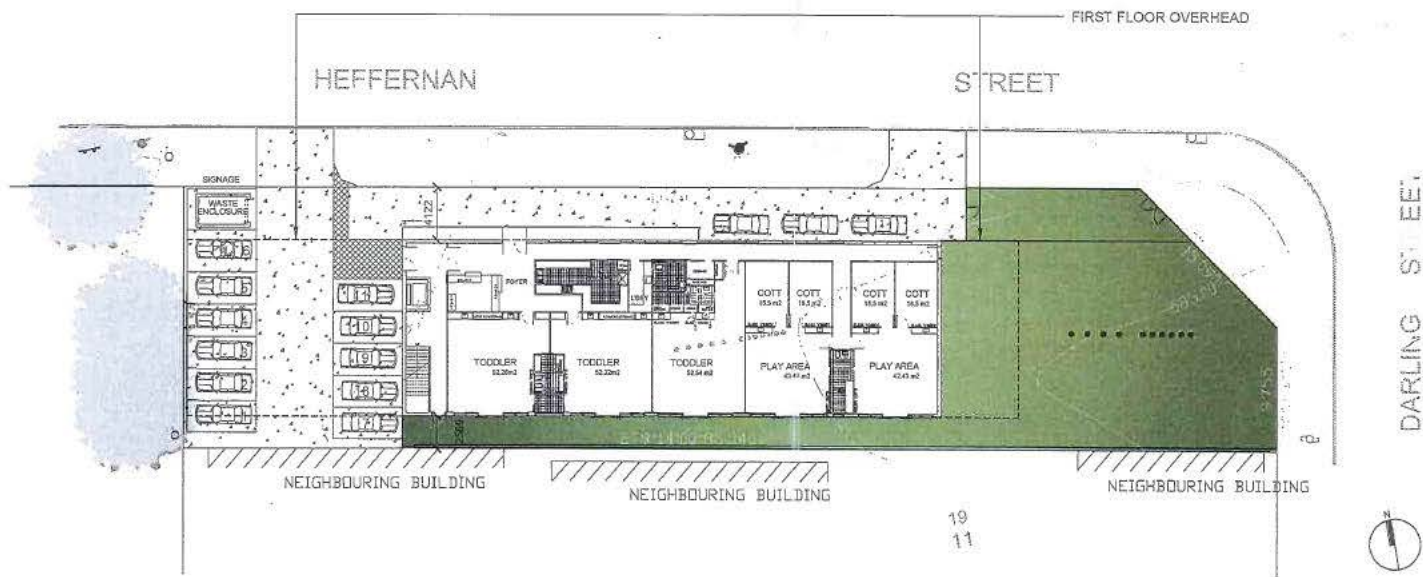
- Letter of Appointment
- List of Interested parties
- Indicative Plans for development
- Letter of support from Children's Education and Care Assurance
- Purpose Clauses within 200m radius
- Statement against criteria
- Preliminary Site Investigation (4 parts)
- Full Valuation Report
- Lease Variation Charge Certificate



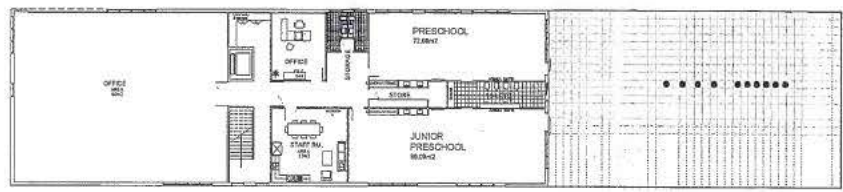
SECTIONS |

BLOCK SECTION DIVISION  
16 11 MITCHELL

A02.1  
JOB 1405



Ground Floor

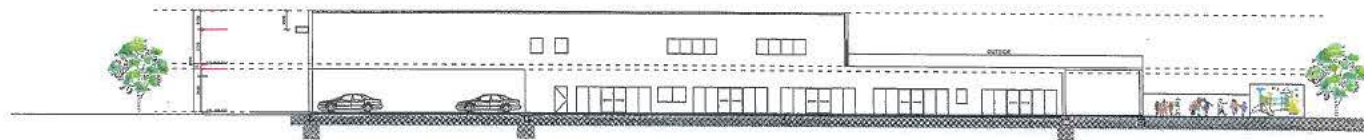


First Floor

**SITE PLAN |**

BLOCK	SECTION	DIVISION
18	11	MITCHELL

**A01.1**  
JOB 1405



ELEVATIONS|

BLOCK	SECTION	DIVISION
18	11	MITCHELL

A03.1  
JOB 1495



**Block 18  
Section 11  
Mitchell  
Lease Variation**

PREPARED FOR



**Prepared By:** [REDACTED]

[REDACTED]

**Ph:** [REDACTED]

**Email:** [REDACTED]

[REDACTED]

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## CONTENTS

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1	PROPERTY INFORMATION.....	4
2	BACKGROUND.....	5
3	ZONE OBJECTIVES – IZ2 MIXED USE INDUSTRIAL.....	6
4	INDUSTRIAL ZONES DEVELOPMENT CODE.....	7
5	LEASE AND DEVELOPMENT CONDITIONS.....	14
6	MITCHELL PRECINCT MAP.....	14
7	GUNGAHLIN DISTRICT PRECINCT MAP AND CODE.....	14
8	COMMUNITY AND RECREATION FACILITIES LOCATION GUIDELINES GENERAL CODE.....	14
9	LEASE VARIATION GENERAL CODE.....	15
10	CONCLUSION.....	17
	ATTACHMENT A – LOCATION OF BLOCK.....	18
	ATTACHMENT B – 200 METRE RADIUS MAP.....	19

**1** PROPERTY INFORMATION

Site Identifier	Block 18 Section 11 Mitchell
Site Address:	1-9 Heffernan Street, Mitchell
Proposal	Lease variation only to add 'Community Use LIMITED to child care centre'.
Land Use Policy:	IZ2 – Industrial Mixed Use
Precinct/Development, General Codes and Overlays	Industrial Zones Development Code Mitchell Precinct Map Gungahlin District Precinct Map and Code Community and Recreation Facilities Location Guidelines General Code Lease Variation General Code No other overlays identified

## 2 BACKGROUND

This application is for the variation of the Crown lease purpose clause to include 'Community Use LIMITED to child care centre' as a use. The variation (if approved) would then allow for a full design and siting application to be submitted which would demonstrate compliance with access arrangements, parking arrangements, building requirements, solar compliancy and the like.

The lessee has met on-site with a representative of the Children's Education and Care Assurance Unit to discuss their requirements. Although it is understood that further in-depth assessment of the proposed building would be required, their 'in principle' support to the concept has been given and a letter from that unit is provided as a document for this application.

This property is located within the IZ2 Mixed Industrial Zone. The intention of the IZ2 zone is to provide for a range of commercial and industrial uses. This application proposes to expand the purpose clause of the existing Crown lease to allow for the use of the block as a child care centre, which is an assessable use within the zone.

The Industrial Zones Development Code requires that a community use must not jeopardise the use of the surrounding land for industrial purposes. An investigation into the uses of blocks within a 200 metre radius was undertaken to identify the current uses allowable on these blocks. A spreadsheet has been prepared which sets out the purpose clauses for all blocks. This is being lodged as a separate document in support of this application. What this investigation demonstrated is that the introduction of a child care centre in this neighbourhood is not likely to impact on a lessee's ability to utilise their premises for the uses currently in their purpose clauses.

In addition, there is no evidence that the use or operation of a well-designed child care centre would impact on the ability to operate any of the uses permitted in the IZ2 development table, including indoor recreation, light industry/industrial trades, restaurant or even service station. There are examples in Canberra and across Australia where these uses co-exist successfully without detriment to either party, particularly where the building is designed to take these matters into account.

It is also worth noting that the northern boundaries of Mitchell, which are fully developed, are less than 200 metres from residential developments in Franklin. This proximity would, no doubt, require a much higher level of monitoring. Historically, Mitchell was originally planned as the Services Zone for Gungahlin and this is reflected in the low impact industrial uses in the suburb and its colocation in close proximity to residential areas.

The current lease purpose clause provides for the use of 'offices'. The development of the site for this use would require the same treatment of the design and siting to be undertaken, to ensure that the noise, fumes and odours from surrounding blocks did not impact on the occupants of the offices, should it be developed for this use.

Equally, legislation is in place which ensures that individual users are not legally allowed to emit noise, fumes or odours beyond an agreed limit.

It is unlikely that other uses provided for under the IZ2 development table such as general industry, recyclable materials collection centres or waste transfer station, could be activated in this area as these uses would serve to impact on all of the current land holders.

Solutions to any possible incompatibility issues with existing or future uses in the surrounding neighbourhood could be addressed at the development stage and reflected in the design of the building. At this stage, the aim is to vary the lease to include this use.

This application will serve to demonstrate that the land is suitable for this use, the introduction of this use will not sterilise the surrounding blocks from being used for industrial uses, nor will the existing uses or future development have any detrimental impact of the operation of a child care centre from this block.

We have reviewed the provisions of the Industrial Zones Development Code and other relevant maps and codes and comment as follows:-

3 ZONE OBJECTIVES – IZ2 MIXED USE INDUSTRIAL	
Zone objective	Comment
a) Support the diversification and expansion of the ACT's industrial base and employment growth	The proposed child care centre would support the growth of the ACT's industrial base by providing the opportunity for workers in Mitchell to access this amenity close to their place of employment. <i>Objective achieved.</i>
b) Facilitate investment in a wide range of industrial and related activities, with efficient land utilisation and provision of infrastructure	The proposed use will facilitate investment and promote efficient land utilisation of the subject block. As previously discussed, this block has remained undeveloped since 2008 as no interest has been found in developing the block. <i>Objective achieved.</i>
c) Provide convenient access for ACT and regional residents to industrial goods, services and employment opportunities	The proposed child care centre would provide convenient access to services and employment opportunities for ACT, Mitchell employees and regional residents. <i>Objective achieved.</i>
d) Ensure that industrial development achieves high environmental standards of cleaner production, waste disposal, noise and air quality	This proposal is for Lease Variation only, however, subject to development the proposed additional use is capable of achieving high environmental standards. <i>Objective N/A</i>
e) Encourage the design and construction of industrial and commercial buildings that are energy efficient, functional and flexible	This proposal is for Lease Variation only. <i>Objective N/A</i>
f) Ensure that development along major approach routes and major roads meets appropriate standards of urban design	The subject block is not located directly along a major approach route or road, but is one block back. This will make for easy access for users of the centre to drop off and collect their children on route to and from work. <i>Objective achieved.</i>
g) Accommodate industry-associated retailing, services and other commercial uses without jeopardising an adequate supply of industrial land	The proposed additional use does not jeopardise the adequate supply of industrial land and would accommodate services for workers in Mitchell and residents of the surrounding areas. <i>Objective achieved.</i>
h) Provide for a range of commercial and service activities at a scale that will protect the planned hierarchy of commercial centres and the Territory's preferred locations for office development	The proposed additional use represents a smaller scale commercial and service activity that does not compromise hierarchy of commercial centres and the Territory's preferred locations for office development. <i>Objective achieved.</i>
i) Meet the need for a mix of lower rent bulky goods retailing, specialised industrial, commercial and service activities alongside general industry	The proposed additional use does not compromise the mix of lower rent bulky goods retailing, specialised industrial, commercial and service activities alongside general industry that operate within this area of Mitchell. <i>Objective achieved.</i>
j) Preserve and promote viable industries that can coexist with more commercially oriented uses	The proposed additional use does not impact on the viability of industries within the IZ2 zone and are compatible with surrounding commercially oriented uses. <i>Objective achieved.</i>
k) Make provision for small-scale services that support surrounding industrial activities, or which meet the needs of the local workforce	The proposed additional use would be considered a small-scale service and, as previously discussed, will support surrounding industrial activities and meets the needs of the local workforce. <i>Objective achieved.</i>
l) The following Zone Objectives apply specifically to West Fyshwick	Not applicable to the subject block.

## 4 INDUSTRIAL ZONES DEVELOPMENT CODE

### 3.1 PART A ZONE SPECIFIC CONTROLS

#### Part A(1) – IZ1 General Industrial Zones

Not applicable. The site is not located within the IZ1 zone.

#### Part A(2) – IZ2 Industrial Mixed Use Zone

Rule	Criteria	Commentary
R2 The maximum gross floor area per shop is as follows: a) supermarket or shop selling food: 200 m <sup>2</sup> b) other shops, except for bulky goods retailing: 3000 m <sup>2</sup>	This is a mandatory rule. There is no applicable criterion.	Not relevant

### 3.2 PART B GENERAL DEVELOPMENT CONTROLS

The following provisions are considered to be relevant:-

Rule	Criteria	Commentary
<b>Element 1: Restrictions on Use</b>		
There is no applicable rule	C3 – Community uses are to be considered only where it is demonstrated that the proposed use does not jeopardise the use of the surrounding land for industrial purposes.	Criterion addressed.  The proposed community use of this application has been considered in context of the location and zoning. Please refer to the response to the Community and Recreation Facilities Location Guidelines General Code included in this document.
There is no applicable rule	C4 - An application for community uses demonstrates that the proposed use:  a) services the needs of the local workforce, or  b) requires a scale of building or level of amenity that is not compatible with other available land.	Criterion addressed.  a) The community use proposed has been considered in the context of the location and how this use would operate. The proposed use is to provide the opportunity for the operation of a child care centre on the site, therefore, providing a necessary amenity to the Mitchell and surrounding community.  b) Not applicable. This application does not propose physical development on site.
R5 - The total GFA of any individual or combination of the following must not exceed 2000 m <sup>2</sup> per lease:  a) business agency b) financial establishment c) office d) public agency.	This is a mandatory requirement. There is no applicable criterion.	Not applicable

There is no applicable rule.	C6 – Residential amenity is provided, through solar access, privacy, noise attenuation and security measures.	Not applicable. No caretaker's residence is proposed as a result of this application.
<b>Element 2: Building and Site Controls</b>		
R7 – Subdivision is only permitted where: a) it is part of a development application for another assessable development b) it is demonstrated that any residual block can accommodate another assessable development designed in accordance with the relevant section of this Code.	This is a mandatory requirement. There is no applicable criterion.	Not applicable. Subdivision is not proposed.
R9 - Urban infrastructure designs are in accordance with the Design Standards for Urban Infrastructure (ACT Department of Urban Services).	This is a mandatory requirement. There is no applicable criterion.	Not applicable.
R10 - In accordance with section 148 of the Planning and Development Act 2007, the application is accompanied by a Statement of Endorsement from utility provider (including water, sewerage, stormwater, electricity and gas) stating that: a) All network infrastructure on or immediately adjacent the site has been identified on the plan b) All potentially hazardous substances and conditions (associated with or resulting from the demolition process) that may constitute a risk to utility services have been identified c) All required network disconnections have been identified and the disconnection works comply with utility requirements. d) All works associated with the demolition comply with and are in accordance with utility asset access and protection requirements.	C10 – If a Statement of Endorsement is not provided the application will be referred to relevant utility provider in accordance with the requirements of the <i>Planning and Development Act 2007</i> .	Not applicable. This application does not propose physical development for the site.

R11 - The maximum height of any wall of the building is 12 metres above natural ground level.	C11 - Development is of an appropriate scale compatible with an industrial area.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C12 - Front and side boundary setbacks provide an acceptable design solution for the development of the site and are not detrimental to the visual relationship with adjoining buildings or the streetscape.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C13 - Where a development is subject to Special Requirements under the National Capital Plan, or any relevant Development Control plan prepared under the National Capital Plan, the development is not inconsistent with the Special Requirements or Development Control Plan. Where any provision of this code is inconsistent with Special Requirements under the National Capital Plan, or any relevant Development Control Plan prepared under the National Capital Plan, that provision has no effect.	Not applicable. The site is not subject to any Special Requirements under the National Capital Plan.
<b>Element 3: Built Form</b>		
R14 External service equipment must be screened from public view.	C14 External service equipment must be integrated into the building design.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C15 The elevations of all buildings facing roads should contribute to the quality of the streetscape through well-designed buildings that respect adjoining buildings and street landscaping.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C16 The proposal identifies opportunities for retrofitting of existing buildings where appropriate.	Not applicable. There is no building on site.
There is no applicable rule.	C17 The roof and/or wall finish is of low reflectivity and not white or off-white or untreated metal.	Not applicable. This application does not propose physical development for the site.

R18 External walls are clad with durable materials, such as masonry, fibre cement sheeting or prefinished metal.	C18 Where practicable, materials are chosen to increase the sustainability of the building and the built environment.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C19 Materials colours and textures are compatible within any development and should contribute to the built character of the adjoining development.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C20 Public access to shops and offices ancillary to industrial buildings provide legible and safe entries, located to the front of buildings.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C21 Fencing visible from the public domain is compatible with the predominant building on the site, and is at least 50% transparent.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C22 The development meets the requirements of the Crime Prevention Through Environmental Design General Code.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C23 The development meets the requirements of the Access and Mobility General Code.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C23A The development meets the requirements of the Community and Recreation Facilities Location Guidelines General Code.	Criterion addressed. Please refer to the response in this document to the Community and Recreational Facilities Location Guidelines General Code.
<b>Element 4: Parking and Site Access</b>		
There is no applicable rule.	C24 Driveways and pedestrian entrances to the site are clearly visible from the front site boundary.	Not applicable. This application does not propose physical development for the site.

R26 Loading docks or vehicular entries to buildings are not provided on the street frontages of buildings.	C26 Loading docks and building entries do not dominate the street frontage or conflict with parking and pedestrian movements in front of the building.	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C27 Parking and vehicular access must comply with the requirements of the Parking and Vehicular Access General Code.	Not applicable. Lease variation only. The Criterion will be addressed at the development stage.
R28 Parking facilities are located behind the minimum front setback but forward of any onsite activity.	C28 The location of car-parking areas maximises opportunities for passive surveillance from areas within and adjacent to the site.	Not applicable. Lease variation only. The Criterion will be addressed at the development stage.
There is no applicable rule.	C29 Where applicable, bicycle parking complies with the requirements of the Bicycle Parking General Code.	Not applicable. This application does not propose physical development for the site.
R30 Provision is made onsite for the loading and unloading of vehicles, with adequate manoeuvring space so that vehicles can enter and leave the site travelling in a forward direction.  Note: Loading/unloading and associated manoeuvring areas is in addition to minimum parking requirements.	C30 Provision is made for associated loading and unloading of goods which complies with all of the following: a) demonstrates adequate justification for the proposed arrangements when not entering and exiting in a forward direction b) does not unreasonably compromise the safety of pedestrian and traffic movement and operation of any adjoining facilities such as road, cycleway or pedestrian pathway, and on-street and off-street parking c) provides adequate space for the manoeuvring of vehicles  d) is endorsed by the Department of Territory and Municipal Services.	Not applicable. This application does not propose physical development for the site.

Element 5: Amenity		
There is no applicable rule.	C31 The minimum setback area includes landscaping, comprising advanced trees and shrubs, in order to minimise the visual impacts of buildings, carparking areas, and plant and materials stored on site.	Not applicable.  This application does not propose physical development for the site.
There is no applicable rule.	C32 Tree planting to parking areas are positioned to provide shade to such areas and to soften the visual impact of such areas.	Not applicable.  This application does not propose physical development for the site.
There is no applicable rule.	C33 Where the proposed use is adjacent to, or is, a noise producing activity, noise attenuation measures are utilised to protect the amenity of the area and promote compatibility of uses.	Although this is a Lease Variation only, it is understood that acceptable attenuation measures will have to be included in the design of the building and surrounds.  The block has considerable natural buffering from the surrounding area and it is considered that the design and siting of the building will comply with this criterion.  Please see the attached spreadsheet setting out the existing lease variation purposes for blocks within a 200 metre radius of this block.  The use of child care centre has been considered in the context of the Industrial Zoning and the surrounding Blocks.  A suitable clause in the Crown lease should require the need for support of a noise report by EPA prior to the activation of this use.
R34 A Noise Management Plan, prepared by an accredited acoustic specialist who is a member of the Australian Acoustical Society, endorsed by Environment Protection is provided for the following uses:  -club -drink establishment -hotel -industry (except light industry) -indoor entertainment facility -restaurant The Noise Management Plan details the design, siting and construction methods, which will be used to minimise the impact of noise on neighbours.	C34 If an endorsed Noise Management Plan is not provided, the application will be referred to the relevant agency in accordance with the requirements of the Planning and Development Act 2007.	Complies with Criterion.  This application is only to vary the Crown lease to add a use. Prior to the activation of the use, a noise report would need to be provided to EPA for their support.  The application can be referred to the relevant agency in accordance with the criteria and the Act.

R35 External lighting is provided to building frontages, to all pathways, roads/laneways and car parking areas in accordance with Australian Standard 1158.1.3 Pedestrian Lighting.	C35 External lighting is provided in accordance with the ACT Crime Prevention and Urban Design General Code.	Not applicable. This application does not propose physical development for the site.
R36 All external lighting provided is in accordance with AS 4282 Control of the Obtrusive Effects of Outdoor Lighting.	C36 All lighting, including security and car park lighting, is designed to minimise light spill	Not applicable. This application does not propose physical development for the site.
There is no applicable rule.	C37 Signs must comply with the Signs General Code.	Not applicable. This application does not propose physical development for the site.
<b>Element 6: Environment</b> Not applicable. This application does not propose physical development of the site, except for R43 as addressed below.		
R43 A statement is provided that the potential for land contamination has been assessed in accordance with the ACT Government Strategic Plan – Contaminated Sites Management 1995 and the ACT Environment Protection Authority Contaminated Sites Environmental Protection Policy 2000, and it is demonstrated that the land is suitable for the proposed development.	C43 If a statement that the site has been assessed is not provided, the application will be referred to the relevant agency in accordance with the requirements of the Planning and Development Act 2007.	A Preliminary Site Investigation (PSI) has been undertaken by [REDACTED] and is submitted with this application. The report indicates that further investigation is required to address several areas of concern on-site, but does not advise of any likely contaminants from adjoining blocks.  It is understood that the further investigation would be required and any issues mentioned in the PSI would need to be addressed before the site would be suitable for a child care centre. However, the lessee should not be expected to undertake the expenditure for such testing until such time as the use has 'in principle' support from the Environment and Planning Directorate.
<b>Element 7 Services:</b> Not applicable. This application does not propose physical development of the site.		

## 5 LEASE AND DEVELOPMENT CONDITIONS

The Crown lease for Block 18 Section 11 Mitchell is subject to lease and development conditions. However, the lease conditions have been incorporated into the Crown lease and the development conditions are focused at physical development of the site.

Standard Development Conditions 'Development assessment processes' states the following:-

*"The development proposed for this block shall be subject to a pre-application and validation process prior to the acceptance of a development application. This process requires the preparation of a Design response report."*

*The design response report may be referred to a Design Review Panel who will provide advice on the quality of the design concept"*

Our reading of this requirement is that it is only intended to be applied to development proposals for physical development and not to lease variation development applications. However, this is not expressly stated or recognised by the Development Condition.

Therefore, and in fulfilment of the Development Condition, we provide the following comments:-

- This proposal does not conflict with any relevant lease and development conditions.
- This lease variation application does not propose physical development of the site.
- In the absence of a design and siting proposal, there are no comments that can be offered on the quality of the design concept. The requirement for a design response report is therefore nullified.

## 6 MITCHELL PRECINCT MAP

The Mitchell Precinct Map has been considered in this application and is not inconsistent with the proposed lease variation as set out in the application.

## 7 GUNGALIN DISTRICT PRECINCT MAP AND CODE

The Gungahlin District Precinct Map and Code have been considered in this application and are not inconsistent with the proposed lease variation as set out in the application.

## 8 COMMUNITY AND RECREATION FACILITIES LOCATION GUIDELINES GENERAL CODE

Community Uses:	Relationship to Shops	Relationship to other use – Close to	Separate from	Co-location Opportunity	Other uses
Child Care Centre	Take-away shops are located within 100 metres from this block. Local Centre is located in the next street. Located within an area of light industry and offices.	Close amenities include pharmacy, post office and local centre. Close to major work routes including Flemington Road and Barton Highway. Able to provide easy vehicle access. There are several blocks of unleased Territory land in the near vicinity.	No correction facilities within this suburb. Separate from residential, schools hospitals and uses. No water bodies or major roads in the immediate vicinity. Can be adequately buffered from any industrial sight, smell or fumes	Co-location opportunities is provided through the surrounding industrial area in providing a child care facility to people working in the major employment centre of Mitchell.	Block is located one block off Flemington Road, a busy thoroughfare that connects Gungahlin to North Canberra. Closest intersection is controlled by traffic lights. Bus stop is located on Flemington Road within 200 -250 metres of the block depending on the direction the bus.

Code objective	Comment
1. To protect and enhance social amenity for all ACT resident and visitors. Social amenity includes access to services, safety and equity in the distribution of facilities.	The proposed child care centre would provide a much needed service to not only Mitchell employees, but residents of Gungahlin and the nearby inner north suburbs, who are in desperate need of additional facilities. Objective achieved.
2. To maximise efficient land use, accessibility and convenience for uses through clustering related facilities and encouraging shared use.	The proposed use will facilitate and promote efficient land utilisation of the subject block. A Child care facility in this area could be accessed by workers in Mitchell, many of which could be within walking distance. Objective achieved.
3. To protect and enhance residential amenity for ACT residents whilst meeting the need to provide access to facilities best located in the residential area.	Not applicable. This is not a residential area.

The proposed child care centre use is not inconsistent with the Community and Recreation Facilities Location Guidelines General Code:

- Sufficient parking will be provided on site following a further design and siting application and will provide safe and convenient access to any future centre. Because the site is currently undeveloped, all parking requirements could be catered for on-site;
- Facilities are adequately separated from any industrial activity, alleviating any concerns regarding noise or odour issues. The Crown lease already provides for the use of office, which would be considered more sensitive than industrial uses. The Industrial Zone development code does provide for the more intensive types of industry, however, the surrounding development would already dictate that that type of industry would have to be located elsewhere.
- The subject block is located conveniently to public transport networks and within reasonable distance to residential areas of Gungahlin and inner north Canberra suburbs.
- The lessee has met on-site with a representative of the Children's Education and Care Assurance Unit. That unit has provided 'in principle' support. This Unit is responsible for granting the licenses to child care operators.

9 LEASE VARIATION GENERAL CODE		
Rule	Criteria	Commentary
<b>Element 1: Variations - General</b>		
There is no applicable rule	A lease is varied only where all of the following are achieved: i) the varied lease is consistent with the Territory Plan including all relevant codes ii) the land to which the lease applies is suitable for the development or use authorised by the varied lease.	This statement against criteria and supportive documentation addresses the relevant Territory Plan as to the suitability of the proposed uses to the land.
<b>Element 2: Variations – to increase rights</b>		
There is no applicable rule	C2 A right under a lease is increased only when all of the following are achieved if the additional rights are granted and activated: i) sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code ii) any increase in traffic flow is within the capacity of the surrounding road network iii) adequate post occupancy waste management and	Not applicable. No increase of rights is proposed as a result of this Lease Variation application.

	disposal can be provided to the relevant Territory standard iv) no unreasonable increase in the level of noise for the occupants of dwellings on the block or on adjoining land. Note: examples of rights are the maximum gross floor area, the maximum floor area allocated to a particular use, building heights.	
<b>Element 3: Variations to add uses – general</b>		
There is no applicable rule	C3 An additional use is authorised by a lease only when all of the following are achieved if the additional use is granted and activated: i) sufficient car parking is provided on site or is available off site in accordance with the Parking and Vehicular Access General Code ii) any increase in traffic flow is within the capacity of the surrounding road network iii) adequate post occupancy waste management and disposal can be provided to the relevant Territory standard iv) no unreasonable increase in level of noise for the occupants of dwellings on the block or on adjoining land v) no unreasonable risk to occupants of the block through any contamination of the block or on adjoining land vi) no unreasonable level of odour for the occupants of dwellings on the block or on adjoining land vii) no unreasonable level of light emission for the occupants of dwellings on the block or on adjoining land.	<ul style="list-style-type: none"> <li>i) Undeveloped block. Car parking will be addressed as part of a subsequent design and siting application.</li> <li>ii) Traffic flow in the area is not expected to be affected with the approval of this use. The use is generally considered to cause low volume traffic.</li> <li>iii) Post occupancy waste will be dealt with in accordance to the municipality's requirements.</li> <li>iv) The proposed use is within an IZ2 zoning. There are expected to be noisy uses in the vicinity. The use of the premises for child care centre is not expected to be a noisy use and will not increase the level of noise in the area or serve to disrupt occupants of adjoining blocks. Adequate buffering will be included in the design of the building to ensure that noise, smells and fumes are dealt with in accordance with EPA requirements. None of the uses being added are more sensitive than the uses currently activated or able to be activated, including community uses, gym and shop.</li> <li>v) Odour will be controlled on the site via virtualisation systems to ensure odour does not impact on the occupants. A separate design and siting application will be required for the activation of this use and will address any odour issues emitting from the block or coming from adjoining blocks.</li> <li>vi) No light is proposed as a result of this lease variation application, a further design and siting Development will address lighting.</li> </ul>
<b>Element 4: Variations to add particular uses</b>		
There is no applicable rule	C4 Community facilities or recreational facilities that are authorised by a lease comply with the Community and Recreational Facilities Locational Guidelines General Code.	See Item 8 of this report.
R6 A variation to a lease to authorise a secondary residence is approved only where the block affected by the lease is 500m <sup>2</sup> or larger.	This is a mandatory requirement. There is no applicable criterion.	Not applicable. This Lease Variation does not propose a secondary residence on site.

## 10 CONCLUSION

As stated above, this proposal is for a lease variation only and the future use would be subject to a further Development Application for the design and siting of the building and parking. That application will address any matters in relation to vehicular and pedestrian access arrangements, solar access to the centre, play area size and location etc. Child care centres are highly regulated in operation, and rigorous licensing requirements would require a proponent to address these matters as part of the design, construction and ultimately the licensing process.

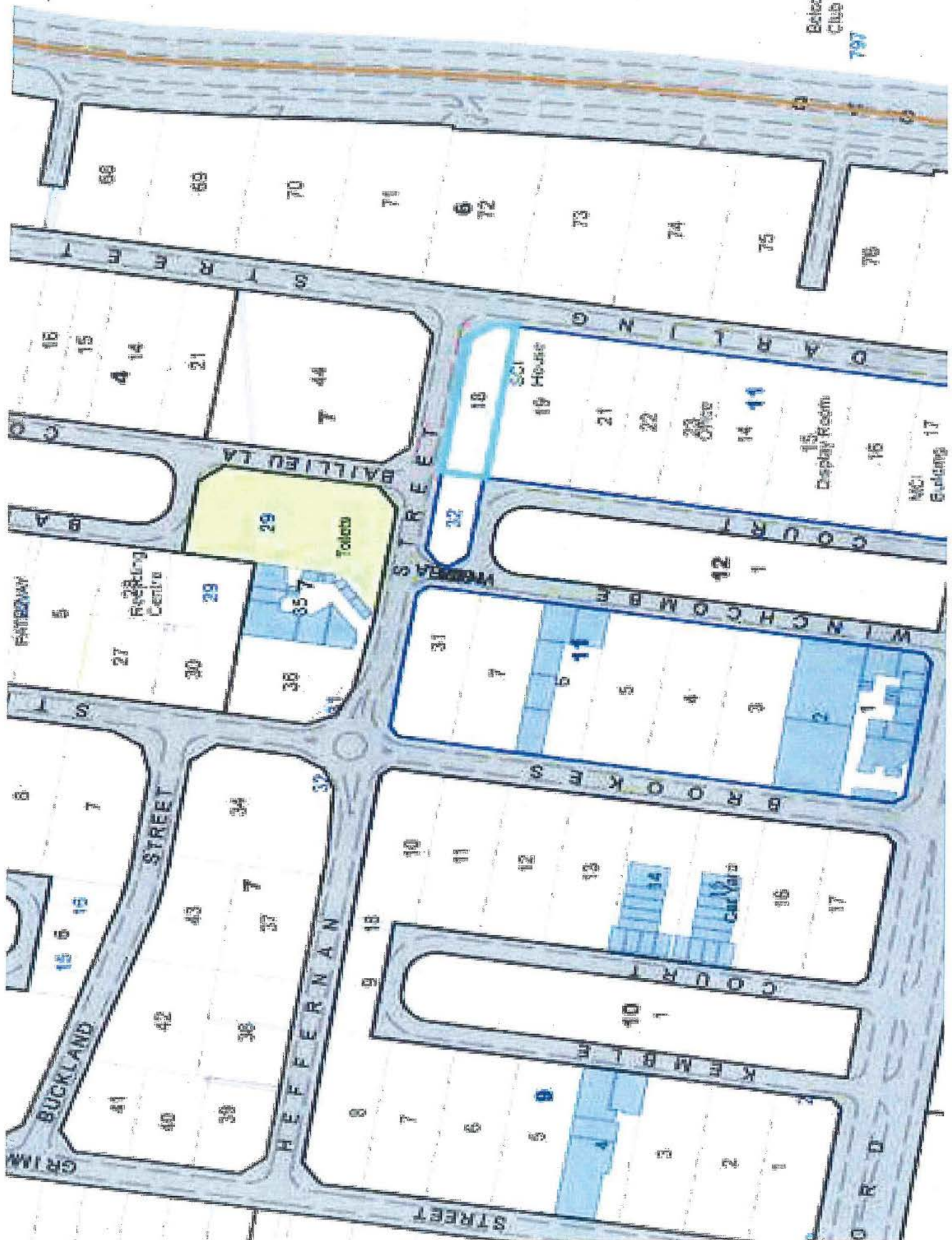
The block is bounded by development on one side only, currently by an electrical automotive business to the south. Two sides share a boundary with roads, as it is a corner block. Along the western boundary is a stretch of treed buffering area of land which appears to be unleased Territory land.

The proposal is generally consistent with the objectives of the locational guidelines (see Item 8) and achieves the objectives of the relevant zone and codes. As demonstrated in the Statement Against Criteria of all of the applicable codes, the application performs well against the locations requirements on a number of fronts. Matters relating to parking, buffering and contamination will be further addressed in the design and siting application.

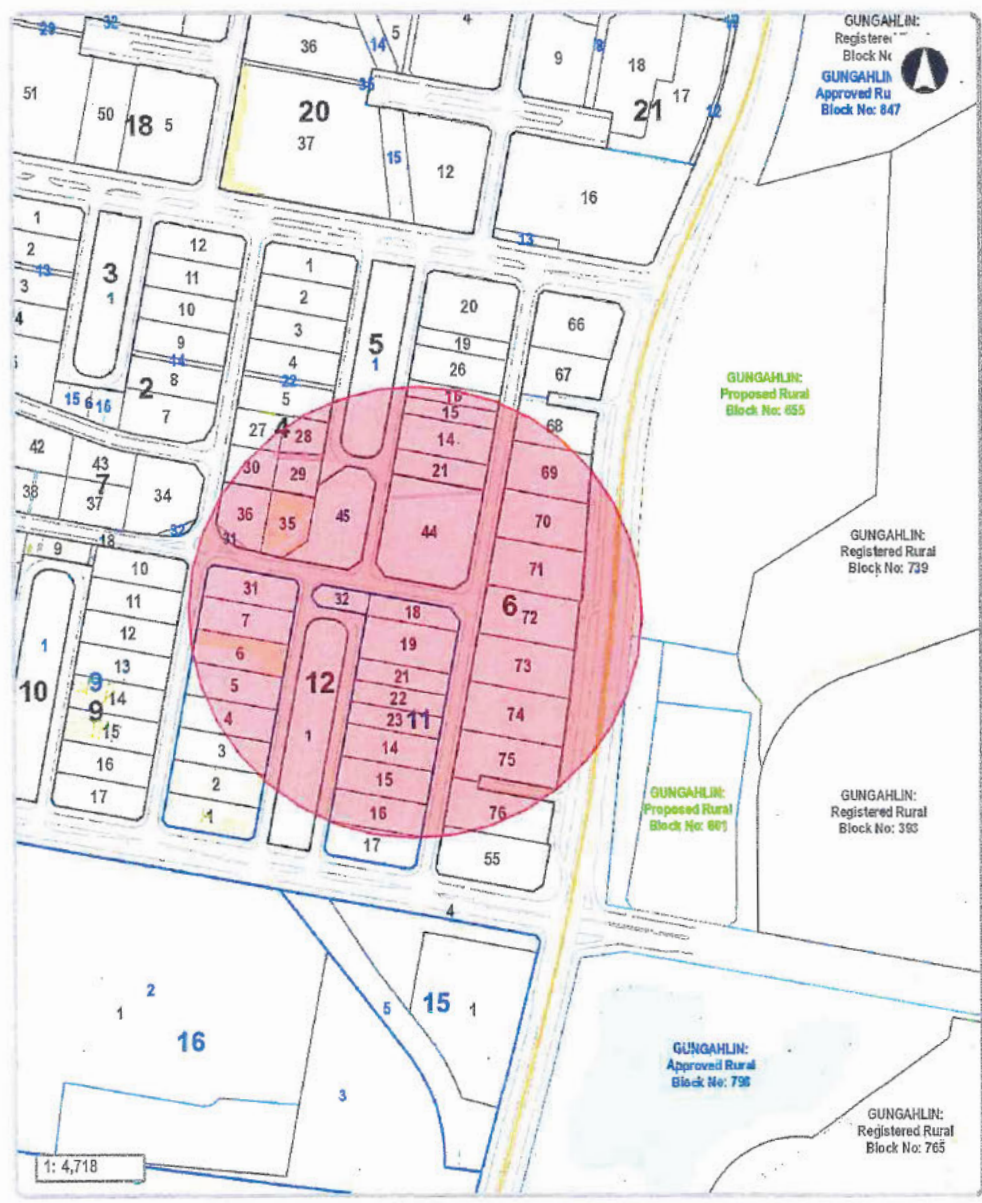
█ have prepared a report based on the preliminary investigations of the site. Nothing in that report indicates that there are any matters that could not be adequately addressed, based on the fact that the site is not developed. Further investigations will be required in order to be certain that the site is suitable for the use. However, these investigations are costly and it is desirable to first establish that, subject to conditions the site could be suitable for the use through an approval of this development application.

Taking all of the above into consideration in conjunction with other material submitted with this application, it is concluded that the land is suitable for the use and that the lease could be varied to add 'Community use LIMITED to child care centre'.

ATTACHMENT A – LOCATION OF BLOCK



ATTACHMENT B - 200 METRE RADIUS MAP



**Disclaimer** The map is a user generated static output from an Internet mapping site and is for reference only. 26-Oct-2015  
Data layers that appear on this map may or may not be accurate, current or otherwise reliable.

**From:** [Sullivan, Susan](#)  
**To:** [Myers, Rhonda](#)  
**Subject:** RE: URGENT REQUEST FOR RESPONSE - REFERRAL-DET-CHILDCARE-SOCIAL INFRASTRUCTURE PLANNING-201528763-18/11 MITCHELL-01 [SEC=UNCLASSIFIED]  
**Date:** Thursday, 3 March 2016 11:31:35 AM  
**Attachments:** [Image001.jpg](#)

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Hi Rhonda,

I conducted a site visit to this block in October 2015 and provided in principle support for an education and care service being located on the site. However, in my correspondence with the applicant I did express concern about the location of the site being a busy street corner. We did discuss the site location being in an industrial area but that the adjacent businesses were currently low intensity with some green zones.

Our legislation is not very prescriptive about where services can be located, as long as children's health and safety needs are met.

Regards,

Susan

Susan Sullivan | Manager, Quality Assurance and Audit | [susan.sullivan@act.gov.au](mailto:susan.sullivan@act.gov.au)  
 Phone 02 62071093 | Fax 02 62071128 | 0411291529  
 Children's Education and Care Assurance |  
 Regulation and Compliance | Education | ACT Government  
 Level 3, Hedley Beare Centre for Teaching and Learning, Fremantle Drive, Stirling  
 GPO Box 158 Canberra ACT 2601 |  
[www.det.act.gov.au](http://www.det.act.gov.au) | [Facebook](#) | [Twitter](#) | [Pinterest](#) | [LinkedIn](#) | [Google+](#)

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**From:** Hastir, Chris  
**Sent:** Thursday, 3 March 2016 11:09 AM  
**To:** Sullivan, Susan  
**Subject:** FW: URGENT REQUEST FOR RESPONSE - REFERRAL-DET-CHILDCARE-SOCIAL INFRASTRUCTURE PLANNING-201528763-18/11 MITCHELL-01 [SEC=UNCLASSIFIED]  
**Importance:** High

From CECA Mailbox

*Chris Hastir*

Chris Hastir | Administration Officer/Scholarships Coordinator  
 Phone 02 62071114 | Fax 02 62071128 | Email : [chris.hastir@act.gov.au](mailto:chris.hastir@act.gov.au)  
 Children's Education & Care Assurance | Education | ACT Government  
 51 Fremantle Drive, Stirling ACT 2611 | GPO Box 158 Canberra ACT 2601 [www.act.gov.au](http://www.act.gov.au)

**From:** Myers, Rhonda  
**Sent:** Wednesday, 2 March 2016 4:51 PM  
**To:** CECA; Edwards, Sarah (School Planning); Chadwick, Graham  
**Cc:** Messer, Sue  
**Subject:** URGENT REQUEST FOR RESPONSE - REFERRAL-DET-CHILDCARE-SOCIAL INFRASTRUCTURE PLANNING-201528763-18/11 MITCHELL-01 [SEC=UNCLASSIFIED]  
**Importance:** High

Dear DET (Sarah and Graham),

I was wondering if you have any opinion or comments to make on the DA sent to you for comments in January 2016 (see below). The applicant suggested that you gave agreement in principle to the proposal for a childcare facility on the site.

Would you please provide me comments as soon as possible (this week if possible) as the extended assessment period is due to expire on 8 March 2016 and so I will need to complete the assessment on Friday of this week (4 March 2016).

I will be out of the office tomorrow, however, please contact Ms Sue Messer, Manager DA Leasing, if you wish to discuss this email in my absence.

Please contact me by reply email or on 6207 1794 if you wish to discuss this matter further.

Kind regards

Rhonda Myers

Assistant Manager | DA Leasing | Lease Administration  
 Planning Delivery | Environment and Planning | ACT Government  
 Dame Pattle Menzies House, 16 Challis Street Dickson | GPO Box 158 Canberra ACT 2601  
 P 02 6207 1794 | e [rhonda.myers@act.gov.au](mailto:rhonda.myers@act.gov.au) | web [www.environment.act.gov.au](http://www.environment.act.gov.au)

**From:** EPD, Customer Services  
**Sent:** Monday, 11 January 2016 3:06 PM  
**To:** CECA; Edwards, Sarah (School Planning); Chadwick, Graham; EPD Strategic Planning Referrals  
**Subject:** REFERRAL-DET-CHILDCARE-SOCIAL INFRASTRUCTURE PLANNING-201528763-18/11 MITCHELL-01

PLANS AND DOCUMENTS SENT ON DISC 11/01/2016

NOTE FOR REFERRAL: Childcare in industrial zone

MANDATORY REFERRAL

**DEVELOPMENT APPLICATION NO: 201528763**  
**BLOCK: 18 SECTION: 11 DIVISION: MITCHELL**

**Description:** LEASE VARIATION - Please see application form for description.

Pursuant to Section 148(1) of the Planning and Development Act 2007 the ACT Planning and Land Authority requests that you consider the abovementioned development application and provide any written advice no later than 15.

**working days** after the date of this notice (02/02/2016).

In accordance with Section 150 of the Planning and Development Act 2007 if advice is not received within the prescribed time it will be taken that you have supported the application.

Please forward any written advice via email to Customer Services --  
[EPDcustomerservices@act.gov.au](mailto:EPDcustomerservices@act.gov.au)

Please use the following format in the subject line of the email when providing advice:

COMM-Agency Name-20080XXXX-Block XX Section XX SuburbXXXXX-01

Example: COMM-Heritage-200801234-Block 10 Section 10 Dickson-01

Regards

Customer Services

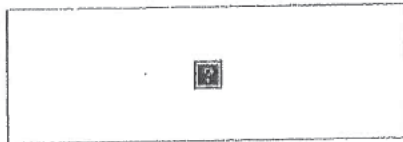
**Phone 02 6207 1923**

Access Canberra | **ACT Government**

Dame Pattie Menzies House, Challis Street, Dickson | GPO Box 158 Canberra ACT 2601

*Access Canberra is an ACT Government service that brings together customer and regulatory services, including the former Environment and Planning Directorates Customer Services Team. Access Canberra has been set up to make it easier for business, community organisations and individuals to work with ACT Government and deliver a more seamless experience.*

[www.planning.act.gov.au](http://www.planning.act.gov.au) | [EPDcustomerservices@act.gov.au](mailto:EPDcustomerservices@act.gov.au)



**From:** [Redacted]  
**To:** EPD, Customer Services  
**Subject:** COMM - Jemena - 201528763 - Block 18 Section 11 Mitchell  
**Date:** Thursday, 14 January 2016 7:48:55 AM  
**Attachments:** [image001.png](#)  
[14012016074741-0001.pdf](#)

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Your application has been assessed by ActewAGL and conditionally complies with our Gas Networks requirements.

Please find attached, your stamped plans together with a statement of compliance.

Separate compliance statements are required from other utilities (eg: electricity, water and sewerage, stormwater and communications).

Regards

[Redacted]

**Jemena**  
Unit 1, 5-7 Johns Place, Hume, ACT 2620

[Redacted]

[www.jemena.com.au](http://www.jemena.com.au)



\*\*\*\*\*  
This is a confidential message intended for the named recipient(s) only. The contents herein are privileged to the sender and the use thereof is restricted to the intended purpose. If you have received this e-mail in error, please do not use, disclose, distribute, copy, print or relay on this email. If receipt is in error, please advise the sender by reply email. Thank you.  
\*\*\*\*\*

**From:** [developmentapplications@iconwater.com.au](mailto:developmentapplications@iconwater.com.au)  
**To:** [EPD, Customer Services](#)  
**Subject:** Icon Water Application Decision, Application - 152441, Mitchell - 18/11  
**Date:** Tuesday, 19 January 2016 11:31:57 AM  
**Attachments:** [Conditional Acceptance152441.pdf](#)  
[MITCHELL\\_11-18 PART SUPPL.pdf](#)  
[MITCHELL\\_11-18 PART DA FORM.pdf](#)

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## Icon Water

### Approval ID : 152441, Mitchell 18 /11

Your application has been assessed against Icon Water's water and sewerage network access and asset protection requirements.

Please find attached an Icon Water DECISION STATEMENT together with your stamped plans.

A failure to comply with decision statement conditions will invalidate the approval and will expose the land-holder to prosecution under the Utilities Act 2000.

Non-compliant submissions must be rectified and resubmitted to Icon Water for approval prior to construction commencing. A decision to proceed with construction using unapproved drawings will expose the land-holder to prosecution under the Utilities Act 2000.

Please note: Separate decision statements are required from other utilities (eg: electricity, gas, stormwater and communications)

### Future applications


Icon Water has introduced an online planning application process for obtaining utility clearances prior to submitting a development application or seeking building approval.

This revised application process consists of an electronic form available [here](#). By using the online form applicants will no longer need to complete the respective Water/Sewerage and Electricity/Gas application forms.

When an application is submitted it will be assessed against the water, sewerage, electricity and gas networks.

Icon Water requests that organisations register their details if they regularly submit applications. Registration will reduce the time it takes to lodge an application. To register, send a return email including the organisation's name, a contact name, phone number and email address.

Regards

  
Building Approvals and Network Protection  
Icon Water



[EPDcustomerservices@act.gov.au](mailto:EPDcustomerservices@act.gov.au)

**Referral-Health-Development Application - 201528763-18-11-Mitchell-01**

Dear Sir/Madam,

Thank you for the documentation received on 11 January 2016 regarding the proposed Lease Variation of Block 18 Section 11 Mitchell.

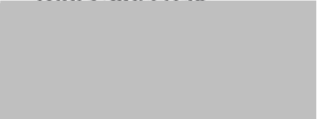
The Health Protection Service (HPS) notes that the application is to add 'Community Use LIMITED to child care centre' to the lease. The HPS also notes that the application is for variation to the lease and does not include any physical development.

The HPS supports the recommendation of the Environment Protection Authority that further site investigation is undertaken by a suitably qualified environmental consultant prior to the variation of the lease.

The HPS is concerned at the proposal to alter the lease to allow a child care centre within an industrial zone. The proposed changes appear to offer potential for incompatible industries to be established within close proximity to a child care centre. The HPS is concerned that such industries adjacent to a future child care centre may pose health risks to vulnerable populations, including developing children.

Please contact Jonathan Chen on (02) 6205 2873 if you require any further information.

Yours Sincerely



John Woollard  
Executive Director  
Health Protection Service

20 February 2016