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Person with Management or Control
■■■■■■■■ Consulting Pty Ltd
PO Box 154
JERRABOMBERRA NSW 2619

Email: ■■■■■■■■ [hotmail.com](#)

Dear ■■■■■■■■

Decision to Issue Administrative Action RE: APP-40220238

1. As you are aware, Authorised Officers from the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed an application for a temporary waiver (APP-40220238) relating to Snow Gum SE-40013163 (the Service) operated by ■■■■■■■■ Consulting Pty Ltd PR-00005827 (the Provider).
2. The application requested a temporary waiver for regulation 132 - Requirement for early childhood teacher—centre-based services—25 to 59 children. To respond to the request of the Authority, the Provider submitted by email on 20 June 2023 a staffing roster which also included the number of children enrolled each day. The staffing roster provided showed that on Tuesdays and Thursdays, 61 children are enrolled at the service.
3. The service is approved for a maximum of 60 places.
4. It is also to be noted that the application for a temporary waiver should be for regulation 133 - Requirement for early childhood teacher—centre-based services—60 to 80 children.
5. The Authority is satisfied that the Provider has not complied with provisions of the *Education and Care Services National Law Act (ACT)* (the *Law*) in this instance. Web addresses for the *Law* and the *Regulations* are provided for your convenience at the end of this decision.

Facts

6. On 18 May 2023, the Authority received an application for a temporary waiver (APP-40220238) through NQAITS to waive regulation 132 - Requirement for early childhood teacher—centre-based services—25 to 59 children, of the Education and Care Services National Regulations (the *Regulations*).
7. On 19 May 2023, the Authority requested by email to the Provider the following:

- a. A full Roster showing all staff members' names, working hours and qualifications.
 - b. Proof of current advertisement.
 - c. Proof of payment.
8. On 20 June 2023, the Provider submitted by email proof of payment and a roster which also showed the number of children enrolled at the service every day of the week. The roster showed that on Tuesdays and Thursdays 61 children are enrolled in the service.
9. On 20 June 2023, the Authority requested by email proof of current advertisement again.
10. On 20 June 2023, the Provider submitted by email a copy of the advertisement currently active through Indeed.

Law and Regulations

11. Provisions of the *Regulations* relevant to the notification assessment are:

Section 51 (4A) - Conditions on service approval

A service approval for an education and care service other than a family day care service is granted subject to a condition that the approved provider must ensure that the number of children educated and cared for by the service at any one time does not exceed the maximum number of children specified in the service approval.

Reasons

12. After carefully considering all information submitted for the purpose of application APP-40220238, the Authority is satisfied that the Provider has contravened sections 51 (4A) of the *Law* in this instance.
13. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, the Authority has decided to issue this administrative action rather than statutory compliance actions.
14. The provider is required to submit evidence of actions undertaken to rectify the contravention of section 51 (4A) of the *Law* and evidence of strategies in place to ensure that such contravention does not re-occur. The Authority requests the submission of evidence within 14 days of receipt of this decision.
15. This Decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or associated *Regulations* be found.

Legislation

16. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011*
<http://www.legislation.act.gov.au/a/2011-42/default.asp>.
17. The *Law* and *Regulations* can be viewed at:
 - <http://www.acecqa.gov.au/national-law>, and
 - <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
18. If you have any questions in relation to this Decision, please contact me by email at delphine.coutin@act.gov.au or by phone on 6207 1105.

Yours sincerely



Delphine Coutin
Assistant Director, Audit and Risk Management
Education and Care, Regulation and Support
ACT Education Directorate

23 June 2023