



City of Parramatta	
File No:	DA/823/2022

SECTION 4.15 ASSESSMENT REPORT
Environmental Planning & Assessment Act 1979

DA No:	DA/823/2022
Subject Property:	Lot 14 DP 939772, 62 Boundary Street, Parramatta
Proposal:	Demolition of existing structures, tree removal and construction of a 3 storey, 48 place childcare centre with basement parking for 12 vehicles.
Date of receipt:	20 October 2022
Applicant:	Baini Design
Owner:	E Nehme
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	10 submissions received within the notification period and 1 submission received outside of the notification period.
Recommendation:	Refusal
Assessment Officer:	Denise Fernandez

Legislative Requirements

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• State Environmental Planning Policy (Precincts – Central River City) 2021• Parramatta Local Environmental Plan 2011 (LEP 2011)• Parramatta Development Control Plan 2011 (DCP 2011)• Draft Parramatta Local Environmental Plan 2020 (DLEP 2020)
Zoning	R4 High Density Residential
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	No
Clause 4.6 variation	No
Delegation	Parramatta Local Planning Panel (PLPP) due to the receipt of 10 submissions

1. Executive Summary

Section 4.15 Assessment Summary

The subject site is located on a narrow allotment with a frontage of 15.36m to Boundary Street and a depth of 46m. The application seeks approval for the construction of a 3-storey childcare centre for 48 children. The immediate sites to the north, east and west are single storey detached dwellings. Further, opposite the site are 2 heritage listed items pursuant to Schedule 5 of Holroyd Local Environmental Plan 2013.

The issues with the proposal arise from the narrow nature of the site. As a result, the built form has been designed as a 3-storey residential flat building with internal and external play areas on the upper floors. The location of the childcare component on the upper floors (because of the shape of the site), has resulted in poor design outcomes. To ensure the protection of adverse amenity impacts on adjoining properties, the development utilises extensive blank walls and limited fenestrations and openings. The poor design of the built form also creates environmental concerns for the childcare centre as the lack of openings and fenestrations limits solar access and ventilation within the facility.

It is noted that the separation controls contained in Chapter 3 of SEPP (Transport and Infrastructure) of 2m (for sites zoned residential) envisages a built form that is one storey in nature and locates internal and external play areas on the ground floor. Given the 3-storey form of the proposal, a 2m side setback to the eastern and western boundaries is insufficient in ameliorating amenity impacts external and internal of the site. The current proposal of a 2m side setback along with the poor design outcome as stated above, is also insufficient in reducing the perception of bulk. Therefore, the development is unsuitable on the streetscape.

Similarly, Part 5 of Parramatta Development Control Plan (PDCP) 2011 envisages childcare facilities to be one storey in nature, particularly in residential zones to mitigate adverse amenity impacts on adjoining properties. However, if the facility is multi-storey in nature, that the upper floors only be used for storage and staff facilities. The proposal conflicts with this design control as it proposes a facility that is a 3-storey residential flat building with childcare components located on the upper floors.

The proposal has also failed to consider the heritage items located opposite the site and in this regard has not been designed to consider the area and the local context.

The application also failed to submit information required to satisfactorily assess the development with regards to stormwater, contamination, and traffic.

The application was reviewed by the Design Excellence Panel (DEAP) who raised concerns with regards to the narrow nature of the site, insufficient side boundary setbacks, basement design, quality of architectural plans, location of outdoor play areas, lack of landscaping and that the proposal in its current form does not demonstrate design excellence and is inappropriate for the subject site.

The application was notified/advertised and received 10 unique submissions within the notification period and 1 submission received outside of the notification period. The issues raised related to traffic movement and congestion, tree removal, air quality, amenity, safety and security, solar access, privacy, pick up and drop off, acoustic, heritage and property values.

For the above reasons and others throughout the report, Council cannot support the application and is recommending refusal.

2. Site Description and Conditions

The subject land is a regular shaped, north-south oriented mid-block land parcel with a frontage of 15.360m to Boundary Street, an average site depth of 46m, resulting in a total site area of 706m². The site has a gentle fall from Boundary Street towards the rear of the site of approximately 1.05m over a site depth of 46m.

At present, the development site currently accommodates an older style single storey residential dwelling and associated structures.

The development site is bounded by lower style residential dwellings to its northern, eastern, and southern boundaries and older style walk up flats and dwelling houses to the south. The site is also within proximity to Auto Alley to the east.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in **Figure 1** below.

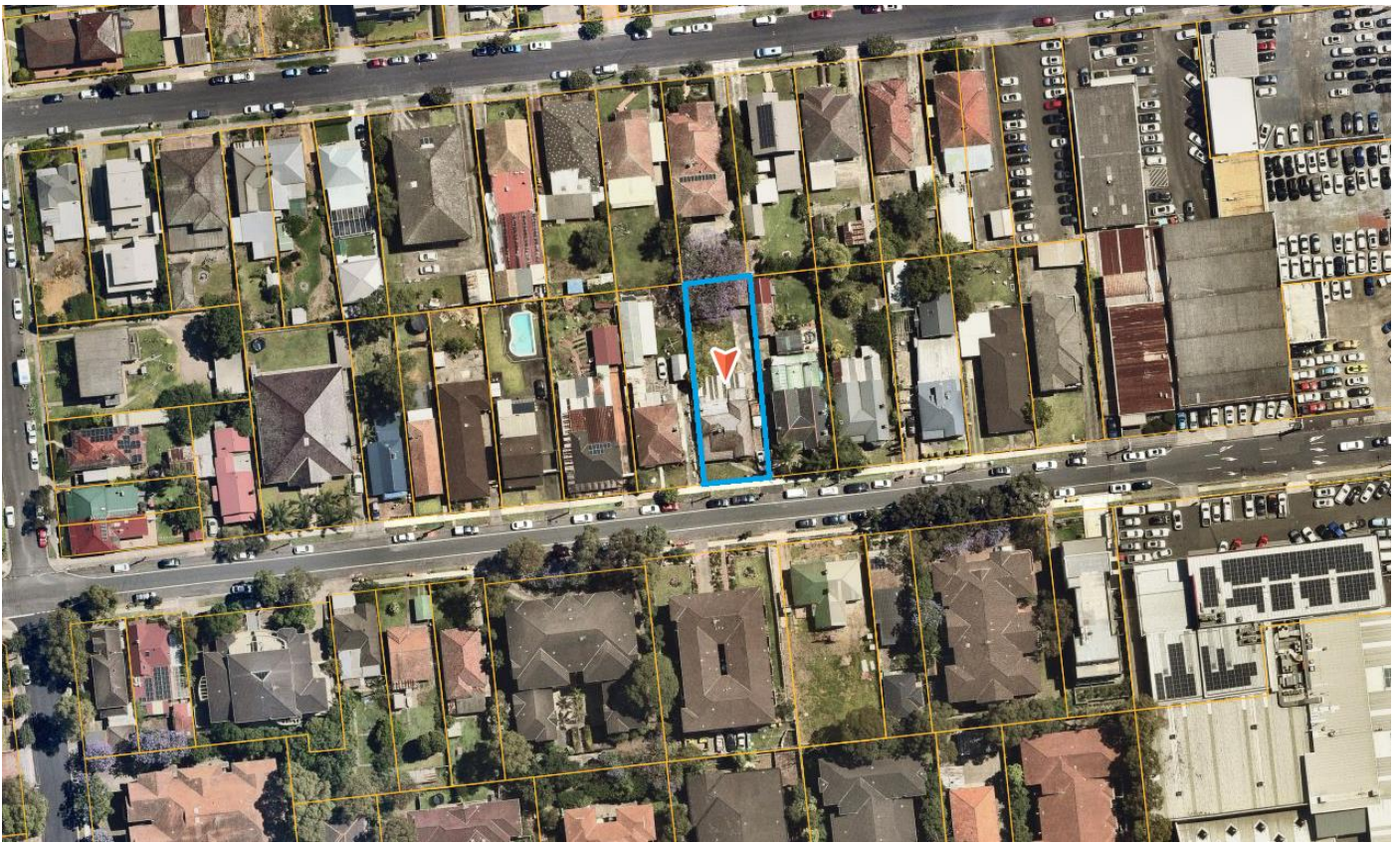


Figure 1: Aerial view of the subject site and surrounds. Subject site outlined in red. Source: Nearmap: November 2022.



Figure 2: Subject site as viewed from Boundary Street. Source: Site Inspection.

3. Relevant Site History

Table 1 below provides details of existing applications relating to the site.

Development Application	Description
PL/88/2021	<p>Pre-Lodgement PL/88/2021 notes were sent to the customer for the demolition and construction of a 3-storey boarding house. At this meeting, Council raised the following concerns:</p> <ul style="list-style-type: none">• Insufficient frontage results in non-compliant setbacks, deep soil and impacts on adjoining properties.• Development on this site may sterilise neighbouring sites and restrict development potential as these sites may not be able to amalgamate and achieve a 24m frontage.• The site should consolidate with an adjoining property to allow a wider frontage.• The reduced setbacks have resulted in blank walls to ensure visual privacy however as the building will be very close to future adjacent buildings acoustic privacy has the potential to be a problem. Future developments on the adjacent sites will be burdened with providing greater separation distances than those described in the ADG.

4. The Proposal

Development Application 823/2022 was lodged on 20 October 2022 for the construction of a multi-storey childcare centre. Specifically, the application seeks approval for:

1. Demolition of existing structures and tree removals.
2. Construction of a 3 storey building for the purposes of a childcare centre for 48 children.

Basement

- 12 parking spaces, including 5 staff spaces and 7 visitor spaces

Ground Floor

- 1 X 0 – 2 year old playroom for 8 children
- 1 x 2 – 3 year old playroom for 10 children
- 1 x cot room with 4 cots
- 1 x 0 – 3 bathroom / nappy room
- Staff room, office, kitchen, laundry and bathroom
- Outdoor play area

First Floor

- 1 x 3 – 5 year old playroom for 20 children
- 1 x 3 – 5 year old outdoor play area for 10 children
- 1 x 3 – 5 year old outdoor play area for 10 children
- 2 x bathroom

Second Floor

- 1 x 3 – 5 year old playroom for 10 children
- 1 x 3 – 5 outdoor play area for 10 children.
- 2 x bathroom

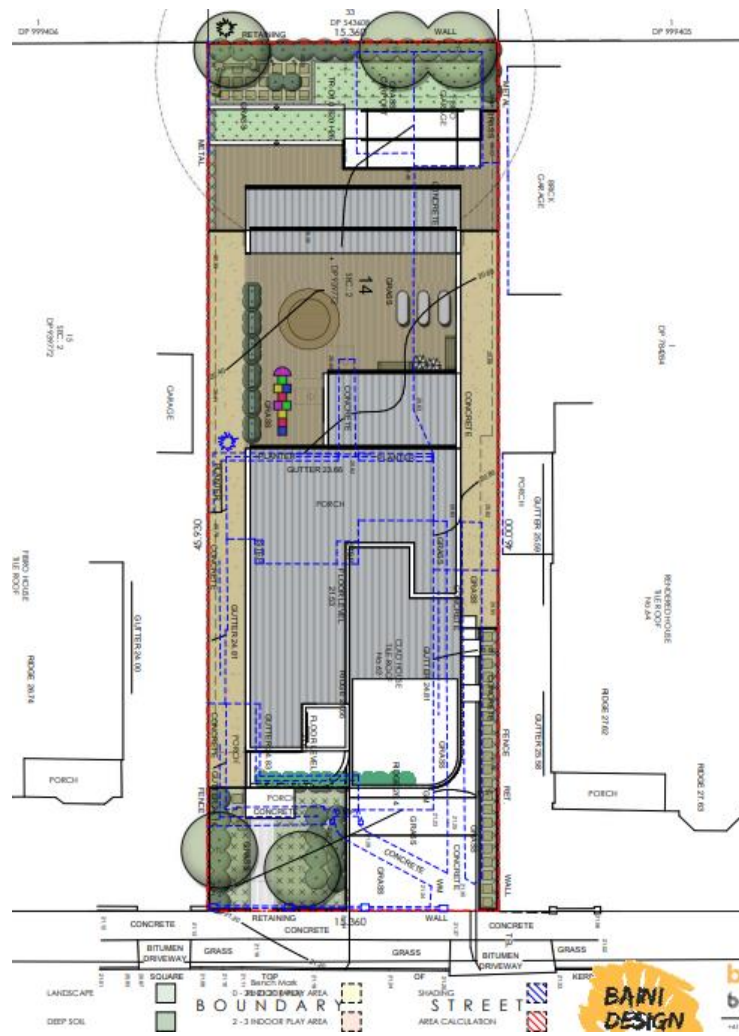


Figure 2: Site Plan. Source: BainiDesign.



Figure 3: Front Elevation (3D View). Source: BainiDesign.

5. Relevant Application History

Date	Comment
20 October 2022	Subject application lodged
28 October 2022 to 11 November 2022	Advertising of the application
7 November 2022	Request for Information sent to applicant regarding the proposal as lodged fails to comply with the Childcare Planning Guidelines 2021, Education and Care Services National Regulations and the Parramatta Development Control Plan 2011. Further, the application failed to submit a

	survey plan that showed the site area by calculation. Council's correspondence also included comments from Council's technical specialists regarding, traffic, engineering, health (contamination) and universal access.
24 November 2022	Design Excellence Advisory Panel (DEAP) reviewed the application.
15 December 2022	Correspondence sent to applicant regarding various design and compliance concerns because of a detailed review by internal referrals and DEAP. Given the significant concerns and that the form of development will result in a different design if such concerns were addressed, it was recommended that the application be withdrawn and that a new application be lodged once all issues were resolved.
20 February 2023	Correspondence sent to applicant stating that as no response has been given to Council as per Council's previous correspondence, that Council will proceed to determine the application. Council also spoke with the applicant to confirm that it will be proceeding with the assessment and determination of the application. The applicant acknowledged this direction.

Note 1: At the time of writing, no request from the applicant has been received confirming withdrawal of the application.

Note 2: The plans used for assessment are the plans submitted upon lodgement.

6. Referrals

Design Excellence Advisory Panel

The Design Excellence Advisory Panel make the following comments in relation to the scheme:

1. The site is a relatively narrow single lot within a context of similarly sized lots on the northern side of Boundary Street with modest single storey dwellings on either side. It is anticipated that this context will change given the R4 zoning.
2. The proposed three-storey form combined with the very small side boundary setbacks results in a development that is too dense for the site and its context.
3. The proposed 2m side boundary setbacks are less than half of the 4.5m setbacks that are required by the DCP.
4. The basement extending from side boundary to side boundary prevents inclusion of deep soil areas and tree planting at the sides.
5. The inadequate side boundary setbacks and the 3-storey scale would almost certainly constrain the future development of adjacent sites.
6. Given these issues, the site is considered to be too narrow for the proposed use and the density is too intense.
7. The blank western side elevation is inappropriate, both in terms of environmental performance and appearance.
8. The driveway/basement entry takes up half the frontage width and this constrains landscape screening which is generally lacking.
9. There should be a pergola over the basement entrance with planting on top to soften the streetscape impact of the driveway.
10. Site amalgamation with adjacent sites should be considered.
11. The submitted architectural drawings of the development lack detail. The elevations are too sketchy and perspectives showing the building within its context are lacking.
12. The drawings do not show sun-shading devices or rainwater goods, both of which need to be clearly indicated on the drawings.
13. Other recommended environmental considerations are the inclusion of solar panels on the roof and ceiling fans in addition to air-conditioning. Note: gas appliances should not be included in the development for environmental reasons.
14. The street elevation drawings do not appear to show the correct cross fall along the street – the drawings show a fall which appears greater than actually exists.
15. The design of the development does not appear to have had any regard to the conjoined pair of single storey heritage items directly opposite the site on the south side of Boundary Street. The SEE does not show these items and there is no accompanying Heritage Report.
16. Outdoor play areas for the childcare centre at upper levels would potentially create noise problems for adjacent sites. Preventing such acoustic issues is all the more important given changed working habits with many more people working from home.
17. The landscape plans need further consideration to address the quantum of deep soil, lack of screen planting on all site boundaries, and the lack of variety in the trees selected (only one species for the front and back)

The lack of an entrance forecourt also compromises the opportunity for parents to temporarily gather or park their prams when dropping off kids.

18. The existing mature jacaranda tree at the rear of the site should be retained.

19. The development does not demonstrate design excellence and is inappropriate for this relatively small site.

Panel Recommendation

The Parramatta Design Excellence Advisory Panel (The Panel) does not support the proposal in its current form. The Panel advises that there are a number of significant issues with the proposal.

Planning Comment

The applicant has not provided Council with satisfactory plans that addresses DEAP recommendations. Accordingly, the proposal cannot be considered for approval.

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Referral	Comment
Acoustic	No objections, subject to conditions of consent.
Waste	No objections, subject to conditions of consent.
Food	No objections, subject to conditions of consent.
Landscaping	No objections, subject to conditions of consent.
Contamination	<p>Not supported, additional information required. The Preliminary Site Investigation Report has recommended that the removal of impacted surface soils should be documented in a Remediation Action Plan. There is no Remediation Action Plan submitted with this application.</p> <p>Further information is required to enable assessment of this application, and a further referral is required upon receipt of the additional information.</p>
Heritage	<p>Not supported, additional information required. The house sits opposite to two heritage items within the broader vicinity. These heritage items on the southern side of Boundary Street are located on the other side of the road. These items are also undergoing some form of redevelopment on that site as the site is currently fenced off with construction fencing.</p> <p>There are also heritage items within the broader locality. The three-storey development however is located amongst single storey dwellings, including the local heritage items opposite the site. There is no transition or a visual buffer between the items and the site.</p> <p>The local heritage items are sufficiently separated from the development site with existing road; however, the residential context and development do not provide sufficient buffer to ensure that the visual relation with the local heritage items are unaffected by the proposal.</p> <p>The proposal should consider a design that does not interrupt the streetscape.</p>
Traffic	<p>Not supported, additional information required. Based on Clause 3.3 (a) of the Australian Standard AS 2890.1-2004, the grade of the first 6m of the ramp into the carpark is to be maximum 5%. However, the ramp into the basement, as shown on the Basement Floor Plan (Drawing No. 06 – Rev A), does not meet this requirement. For this reason, the proposal is to be re-designed to ensure that the exit ramp into the basement carpark is in accordance with the requirements of the Australian Standard AS 2890.1-2004 and the plans are to be amended accordingly.</p> <p>Council’s Traffic Engineer has requested amended information from the applicant which has not been submitted. Accordingly, a final assessment of the traffic impacts of the development could not be completed.</p>
Universal Access	Universal Access provides the following comments. Upon review of the plans and documentation submitted upon lodgement, it was not considered satisfactory for support for the following reasons.

1. A comprehensive Access Report by Access Link Consulting (D08734028) has been provided identifying several issues that will be required to be addressed at the construction certificate (CC) stage of the project. These additional comments are not limited to or replace those mentioned within the access report and does not relinquish the applicant from its obligation to provide a fully compliant detailed universally accessible design.

Basement

2. Clearly identified intuitive safe paths of travel providing access from the parking spaces to the basement lift must be identified.

Ground and upper floor levels

3. The ramp providing access to the ground floor rear outdoor play area requires landings with a clear area no less than 1540mm following AS1428.1 fig 25.
4. The dimensions of the accessible WCs are contradictory and require clarification so an informed assessment can be made.
5. To meet the intent of the DDA, provide a section at the reception/ sign in areas for patrons and visitors with disabilities to carry out transactions. This will decrease the risk of non-compliance with the DDA. The accessible sections should have the following features to comply with AS1428.2 clause 24.
 - Minimum 800 mm length
 - Height to the top of 850 ± 20 mm,
 - Under clearance of 820 ± 20 mm and an
 - Overhang a minimum 620mm in depth
6. The staff room will require features that could be adapted should a person with a mobility impairment be employed. AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with backrests and arm rests.
7. Low level thresholds should be provided at all doors accessing outdoor areas thus enabling compliant access.
8. The abutment of surfaces shall have a smooth transition. *Design transition shall be 0 mm. Construction tolerances shall be as follows:*
 - i. (a) 0 ± 3 mm vertical.
 - ii. (b) 0 ± 5 mm, provided the edges have a bevelled or rounded edge to reduce the likelihood of tripping. AS1428.1.7.2.
9. The outdoor play areas will require accessible paths of travel and suitable accessible, inclusive features including play spaces and equipment.
10. BCA Table D3.1 Requirements for access for people with disability access requirements; Class 9b to and within all areas normally used by the occupants.

Summary

1. Ensure compliance with the Access Link Consulting Access Report.
2. Clearly identify the basement paths of safe travel
3. The rear ramp requires compliant landings following AS1428.1 fig 25
4. Detailed plans/clarification will be required.
5. The reception/ sign in desk must provide accessible features.
6. Ensure the staff room kitchen features can be adjusted to suit a person with disabilities.
7. Ensure low level thresholds are provided at the external doors.
8. Ensure abutments of varying surfaces have level transitions.

Ensure equipment and furniture provide suitable features for a child or person with a mobility impairment.

Development Engineer

Upon review of the plans and relevant documentation, Council's Development Engineer cannot support the application given the following concerns remain unresolved.

Stormwater Requirements recommendation

1. Stormwater drainage shall be removed from indoor play areas.
2. Outdoor play area on ground level shall be graded and collected by grated drains outside the accessible play area and conveyed to the downpipes.
3. First floor outdoor area shall be graded to each side and collected by strip drains or gutters outside the play area.

4. Access to the OSD by children shall be restricted.
5. OSD weir overflow arrows corrected to show the HED chamber overflowing into the OSD storage tank.
6. Wall between WSUD chamber and OSD outlet chamber and storage tank shall be full height walls or minimum 100mm higher than all other walls, so no overflows occur at these points.
7. As the site falls to the rear and an easement is required to drain the site, the following shall be shown on any stormwater plans:
 - (a) Full details of Stormwater drainage within the easement to a legal point of discharge.
 - (b) A long section of the drainage pipe within the easement to the point of discharge.
 - (c) The drainage easement location shall not disturb any structures or root zone of existing trees within the property/properties.
 - (d) All structures and trees within, overhanging or within 5m of the proposed easement shall be accurately indicated on the plans (supported by a survey and included in the survey plan).
8. A letter shall be provided from the downstream property owners agreeing in principle or a letter signed by the downstream property/properties owners indicating that purposeful dialog has been entered into regarding the future creation of an easement. This letter is a prerequisite for the ongoing assessment your application.

Retaining Walls

9. If any earthworks are proposed, the following shall be provided:
 - (a) A separate cut and fill plan.
 - (b) All retaining walls that form part of this development shall be shown across all plans.
 - (c) All retaining wall details including top of wall, bottom of wall, wall type, cross-section for all wall types.
 - (d) The retaining walls shall be designed to ensure that natural flows from adjoining properties are not impeded or diverted.

Traffic / Driveway recommendations

A driveway longitudinal section from the centreline of the road to the garages is to be included in the plans. The section shall incorporate levels within the footway consistent with Council's standard drawing DS10 (attached) and sufficient transitions to prevent vehicles scraping in accordance with AS2890.1-2004.

PLANNING ASSESSMENT

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Precincts – Central River City) 2021
- Parramatta Local Environmental Plan 2011 (PLEP 2011)
- Parramatta Development Control Plan 2011 (PDCP 2011)
- Draft Parramatta Local Environmental Plan 2020 (DLEP 2020).

Compliance with these instruments is addressed below.

**7.2 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 3
EDUCATIONAL ESTABLISHMENTS AND CHILDCARE FACILITIES**

Standards and Provisions	Compliance
Part 3.3 Early Education and Care Facilities – Specific Development Controls	
CI 3.22 Centre based childcare facility – concurrence of Regulatory Authority required for certain development	N/A – The application does not seek approval for a departure to regulation 107 (indoor unencumbered space requirements) or Regulation 108 (outdoor unencumbered space requirements) of the Childcare Planning Guidelines.
CI 3.24 Centre based childcare facility in Zone IN1 or IN2	N/A – The subject site is zoned R4 High Density Residential
CI 3.25 Centre based childcare facility – Floor Space Ratio	N/A – The subject site is not zoned R2 Low Density Residential where a maximum 0.5:1 FSR would be applicable.
CI 3.26 Centre based childcare facility – Non discretionary development standards	<p>Yes</p> <p><u>Location</u> – The site is not within proximity to another childcare centre.</p> <p><u>Indoor Space</u> – The proposal complies with the requirements under Regulation 107 of the Childcare Planning Guidelines and proposes indoor unencumbered space of 156m².</p> <p><u>Outdoor Space</u> – The proposal requires a minimum 336m² of outdoor unencumbered space for 48 children under Regulation 108 of the Guidelines. The proposal provides sufficient outdoor play areas.</p> <p><u>Site Area and Dimensions</u> – The site is of a satisfactory size and shape.</p> <p><u>Colour of building and materials</u> – The proposed building materials and colours are satisfactory.</p>

7.2.1 Childcare Planning Guidelines 2021

Considerations and Requirements	Compliance/Discussion
Part 3 – Matters for consideration	
3.1 Site selection and location	
<p>C1 For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity. 	<p>No</p> <p>The subject site is narrow with a frontage of 15.36m. Consequently, a 2m side setback is provided to allow for a sufficient building footprint. Due to the insufficient setbacks proposed – combined with the three storey height, the building is designed with extensive blank walls to mitigate visual and acoustic impacts on adjoining properties. This is a poor design outcome for the users of the childcare centre but also on adjoining properties and on the pedestrian and streetscape level.</p> <p>Further, the proposal is for a 3 storey childcare centre which provides outdoor play areas on the upper floors. This is not considered to be satisfactory as this is likely to result in unacceptable acoustic impacts to adjoining properties. The submitted Acoustic Report recommends restricting the number of children using the outdoor play areas to control the acoustic impacts, however, this cannot be regulated, nor does it allow the required flexibility for the centres activities and program.</p> <p>Accordingly, the proposal cannot be considered for approval.</p>
<p>C2 When selecting a site, ensure that:</p>	<p>No</p>

<ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. 	<p>The sites to the north, south, east and west are zoned R4 High Density residential.</p> <p>The site is not known to be flood or bushfire prone or a landslip risk. The site is not located in a coastal zone.</p> <p>The application was submitted with a PSI which concluded that the removal of impacted surface soils should be documented in a Remedial Action Plan (RAP). It is noted that a RAP has not been submitted in accordance with the PSI recommendations.</p> <p>The subject site is narrow with a frontage of 15.36m. The proposal provides 2m side setbacks to allow for a practical building floor plate. Consequently, the development has been designed that utilises extensive blank walls to protect adjoining properties from acoustic and visual impacts. Further, due to its narrow nature, the proposal is designed as a multi storey childcare centre with outdoor play areas located on the upper floors which exacerbates acoustic impacts on adjoining developments. Accordingly, the site due to its narrow nature is not considered to be appropriate in accommodating the proposed childcare centre.</p> <p>Drop off and pick up are located within the basement. Council's Traffic Engineer notes that the design of the driveway does not currently meet Australian Standards which restricts access to the basement and therefore the drop off and pick up facilities. Council has requested that the ramp to the basement be amended to ensure compliance with the relevant standards, however to date, no amended plans have been received.</p>
<p>C3 A child care facility should be located:</p> <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>Yes</p> <p>The site is located within walking range of the following:</p> <ul style="list-style-type: none"> - Parramatta CBD - Parramatta transport interchange - Employment zones within the Parramatta CBD - Ollie Webb Reserve - Public transport (bus stops) on Church Street
<p>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities 	<p>Yes</p> <p>The site is not located within proximity hazardous uses, extractive industries, intensive agriculture or agricultural activities.</p>

<ul style="list-style-type: none"> any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 	
3.2 Local character, streetscape and the public domain interface	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> contribute to the local area by being designed in character with the locality and existing streetscape reflect the predominant form of surrounding land uses, particularly in low density residential areas recognise predominant streetscape qualities, such as building form, scale, materials and colours include design and architectural treatments that respond to and integrate with the existing streetscape use landscaping to positively contribute to the streetscape and neighbouring amenity integrate car parking into the building and site landscaping design in residential areas. 	<p>No</p> <p>Whilst this portion of Boundary Street is undergoing a transition from low density to high density, the applicant has not satisfactorily demonstrated how the proposal relates to the existing street. In particular, it does not consider the nearby heritage listed dwellings opposite the site.</p> <p>DEAP has also stated that the site is too narrow for the proposed use and the density too intense and is therefore inappropriate for the small site. For these reasons, Council cannot support the application.</p>
<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> fencing to ensure safety for children entering and leaving the facility windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community integrating existing and proposed landscaping with fencing. 	<p>No</p> <p>A clear path from the street frontage to the childcare centre's entry is provided.</p> <p>The windows that address the street frontage are designed as highlight windows which reduces opportunities for direct views of the street for passive surveillance. In addition, the landscaping provided along the street frontage is likely to obscure any views of the street from the childcare centre.</p>
<p>C7 On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the childcare facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>N/A</p> <p>The development provides one entry and building.</p>
<p>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> clearly defined street access, pedestrian paths and building entries low fences and planting which delineate communal/ private open space from adjoining public open space minimal use of blank walls and high fences. 	<p>N/A</p> <p>The site does not adjoin a public park, open space or bushland.</p>
<p>C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p>C10 High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.</p>	<p>N/A</p> <p>The proposal does not propose a front a fence.</p> <p>The site does not adjoin a classified road.</p>
3.3 Building orientation, envelope and design	
<p>C11 Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: 	<p>No</p> <p>The outdoor play areas are located on the ground floor and the upper floors and is in the immediate vicinity of residential dwellings to the north, east and west. The Acoustic Report recommends acoustic barriers on the</p>

<ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>ground floor with a height of min. 1.8m/max. 1.9m. It has not been ascertained if retaining walls are required along these boundaries and if this will add to the overall height of the acoustic barrier, which would result in unacceptable amenity within the site.</p> <p>The proposal in this instance has not demonstrated that the upper floors which contain outdoor play areas are provided with measures to protect children and staff from wind and other climatic conditions.</p>
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. 	<p>No</p> <p>Whilst the zoning of the site allows for a 3 storey development consistent with that of existing development (opposite the site), the subject site is considered to be restricted in width (too narrow) to allow a form and density of the development as that proposed. The proposal provides a 2m side setback to allow for a practical floor plate however, this does not allow a sufficient separation to adjoining developments to mitigate acoustic and visual impacts. The building design with extensive blank walls that addresses the side boundaries is harsh and a poor design outcome on a pedestrian level. Further, the proposal has not considered the heritage listed items opposite the site in terms of visual impacts. Accordingly, the application cannot be supported.</p>
<p>C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p> <p>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>No</p> <p>The development does not provide side setbacks as prescribed by PDCP 2011 for developments in an R4 zone.</p> <p>It is noted that whilst C14 refers to applying setbacks required for a dwelling house for childcare centres, this control envisages childcare centres of a one storey nature. The proposal being a 3-storey built form requires setbacks beyond what is required for a dwelling house to reduce the perception of bulk and scale on adjoining properties whilst protecting these properties from amenity impacts from the facility, particularly when outdoor play areas are located on the upper floors.</p>
<p>C15 The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas 	<p>No. See comments from C12.</p>

<ul style="list-style-type: none"> • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ol style="list-style-type: none"> 3. Located to allow ease of access, particularly for pedestrians; 4. Directly accessible from the street where possible; 5. Directly visible from the street frontage; 6. Easily monitored through natural or camera surveillance; 7. Not accessed through an outdoor play area; and 8. In a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<p>Yes</p> <p>A separate access is provided to the childcare centre and is visible from the street.</p>
<p>C17 Accessible design can be achieved by:</p> <ol style="list-style-type: none"> 1. Providing accessibility to and within the building in accordance with all relevant legislation; 2. Linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry; 3. Providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible; and 4. Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. <p>NOTE: The <i>National Construction Code</i>, the <i>Discrimination Disability Act 1992</i> and the <i>Disability (Access to Premises – Buildings) Standards 2010</i> set out the requirements for access to buildings for people with disabilities.</p>	<p>No</p> <p>Council’s Universal Access and Design Officer has reviewed the proposal and upon review, does not support the development in its current form. Accordingly, the proposal cannot be supported.</p>
3.4 Landscaping	
<p>C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. <p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas. 	<p>No</p> <p>Due to the narrow nature of the site and that it limits the amount and location of outdoor play areas, it has resulted in very limited landscaping that reflects and reinforces the local context. Further, it does not satisfactorily incorporate trees, rocky outcrops and vegetation communities as the bulk of the outdoor play areas are located on the upper floors.</p> <p>As a result of the narrowness of the site, the driveway dominates the street frontage which limits the opportunities for landscaping. It is noted that Council’s Traffic Engineer requires amendments to the driveway ramp as it does not currently meet the relevant standards. To date, Council has not received amended plans addressing this concern. Given the lack of information, Council cannot undertake an assessment of the proposal and therefore cannot be considered for approval.</p>

3.5 Visual and acoustic privacy	
<p>C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>No</p> <p>The proposal is not for a mixed-use development. The existing adjoining developments are one-storey in nature and will not overlook the facility.</p>
<p>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ol style="list-style-type: none"> 1. Appropriate site and building layout; 2. Suitably locating pathways, windows and doors; and 3. Permanent screening and landscape design. 	<p>No</p> <p>The use of highlight windows along the elevations, acoustic fencing and lack of fenestrations restricts views into the indoor rooms and outdoor play areas. Further, the external presentation of these elements is unsuitable on the streetscape and exacerbates the bulk and scale. Accordingly, the proposal cannot be supported.</p>
<p>C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ol style="list-style-type: none"> 1. Appropriate site and building layout; 2. Suitable location of pathways, windows and doors; and 3. Landscape design and screening. 	<p>No</p> <p>Due to the 3 storey nature of the facility, it is likely that opportunities for overlooking will increase into adjoining properties, particularly of private open space areas.</p>
<p>C23 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ol style="list-style-type: none"> 1. Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence); and 2. Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	<p>Yes</p> <p>A maximum 1.8m Acoustic Fence is provided along the side boundaries of the childcare centre that has interface with adjoining residential premises. A further 1.9m acoustic barrier is also proposed along the rear boundary.</p>
<p>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ol style="list-style-type: none"> 1. Identify an appropriate noise level for a child care facility located in residential and other zones; 2. Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use; and 3. Determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>Yes</p> <p>Council's Health (Acoustic) Officer has reviewed the proposal and the Acoustic Report submitted with the application and raised no objections. If Council had supported the application, conditions would have been imposed on the consent as recommended by Council's Health Officer.</p>
3.6 Noise and air pollution	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) 	<p>No</p> <p>The proposal has located the cot rooms away from openings, provides a landscape buffer to the rear and reduced the number of fenestrations overall. Whilst this reduces the acoustic impacts of the proposal on adjoining developments, this has resulted in a built form that is of a poor design outcome, is unsuitable on the streetscape and exacerbates bulk and scale. Accordingly, the proposal cannot be supported.</p>

<ul style="list-style-type: none"> • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits • locating cot rooms, sleeping areas and play areas away from external noise sources. <p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise. 	<p>N/A.</p> <p>The site is not located on industrial land, subject to an ANEF contour, adjacent to a railway corridor or a major/busy road.</p>
<p>C27 Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p> <p>C28 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility. 	<p>N/A</p> <p>The site is not located on a major road or within proximity to industrial development.</p>
<p>3.7 Hours of operation</p>	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>Yes</p> <p>The proposed hours of operation complies.</p> <p>Monday to Friday: 7AM to 6PM</p>
<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>Yes</p>

	The proposed hours of operation are compliant with the provisions of this Chapter. Accordingly, the hours of operation are considered acceptable.
3.8 Traffic, parking and pedestrian circulation	
C31 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	Yes Minimum car parking rates achieved.
C32 In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	N/A The development is not for a mixed-use building.
C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that: 1.The amenity of the surrounding area will not be affected; and 2. There will be no impacts on the safe operation of the surrounding road network.	No Council's Traffic Engineer has requested amended information from the applicant which has not been submitted. Accordingly, a final assessment of the traffic impacts of the development could not be completed. As such, the proposal cannot be considered for approval.
C37 Mixed use developments should include: 1. Driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks; 2. Drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site; and 3. Parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.	N/A The proposal is not for a mixed-use development.
Part 4 – Applying the National Regulations to development proposals	
4.1 Indoor space requirements	
Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m ² of unencumbered indoor space.	Yes Required – 156m ² Provided - 170m ²
Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1). Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:	N/A A verandah is proposed however it is allocated as an outdoor play area. No. Insufficient information has been received. Required - Min. internal: 9.6m ³ Min. external: 14.4m ³

<p>1.A minimum of 0.3m³ per child of external storage space; and 2.A minimum of 0.2m³ per child of internal storage space.</p> <p>Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.</p>	<p>Storage room volume and dimensions details have not been submitted to allow Council to assess this provision. Accordingly, the proposal cannot be considered for support.</p> <p>No. A pram parking area has not been provided.</p>
4.2 Laundry and hygiene facilities	
<p>Regulation 106 Education and Care Services National Regulations</p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	<p>No, insufficient information.</p> <p>The laundry is considered insufficient in size and does not address the minimum laundry facility requirements of this section of the guideline. Accordingly, the proposal cannot be considered for support.</p>
4.3 Toilet and hygiene facilities	
<p>Regulation 109 Education and Care Services National Regulations</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the <i>National Construction Code</i>.</p>	<p>Yes</p> <p>Detailed Elevation/section plans of the toilet and hygiene facilities have been provided for assessment.</p>
4.4 Ventilation and natural light	
<p>Regulation 110 Education and Care Services National Regulations</p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p>	<p>No, insufficient information</p> <p>The submitted architectural plans do not demonstrate the amount of natural light and ventilation achieved for all indoor play areas, particularly as there is a lack of fenestrations and openings along the side elevations. Further, due to the required acoustic barriers on the upper floors, it is unclear / or has not been demonstrated that adequate ventilation / solar access is available for the outdoor play areas. Accordingly, the proposal cannot be considered for support.</p>
4.5 Administrative space	
<p>Regulation 111 Education and Care Services National Regulations</p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Yes</p> <p>A meeting room is provided within the facility for the purposes of conducting the administrative functions of the service and consultations.</p>
4.6 Nappy change facilities	
<p>Regulation 112 Education and Care Services National Regulations</p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i>.</p>	<p>No, insufficient information</p> <p>Details demonstrating compliance to the design guidance of Section 4.6 of the guidelines has not been provided. Accordingly, the proposal cannot be considered for support.</p>
4.7 Premises designed to facilitate supervision	

<p>Regulation 115 Education and Care Services National Regulations</p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i>.</p>	<p>No, insufficient information</p> <p>Details of the passive internal windows proposed have been submitted with the application.</p> <p>Concern is also raised that some parts of the outdoor play areas on the upper floors cannot be supervised from within the development. In particular, the outdoor play areas directly opposite the windows along the southern (front) elevation on the upper floors. As the area connected to these windows is access to the internal bathrooms, surveillance of the outdoor play area from this part of the development would be infrequent. Accordingly, the proposal cannot be considered for support.</p>
<p>4.8 Emergency and evacuation procedures</p>	
<p>Regulations 97 and 168 Education and Care Services National Regulations</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ol style="list-style-type: none"> 1. Instructions for what must be done in the event of an emergency; 2. An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and 3. A risk assessment to identify potential emergencies that are relevant to the service. 	<p>No, insufficient information</p> <p>An evacuation management plan has been submitted for assessment. However, it appears that the assembly point in the event of an emergency is located on private property. A revised evacuation management plan was requested raising this concern; however, an amended plan has not been submitted.</p>
<p>4.9 Outdoor space requirements</p>	
<p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ol style="list-style-type: none"> 1. Pathway or thoroughfare, except where used by children as part of the education and care program; 2. Car parking area; 3. Storage shed or other storage area; 4. Laundry; and 5. Other space that is not suitable for children. <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play (refer to Figures 9 and 10).</p>	<p>Yes</p> <p>Number of Children: 48 Minimum Required: 336m² Proposed: 360m²</p>
<p>4.10 Natural environment</p>	
<p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p>No, insufficient information received.</p> <p>Due to the multi-storey nature of the development and that the outdoor play areas are located on the upper levels, the proposal has not incorporated natural play elements such as grass instead of turf to ensure the best learning and development outcomes are achieved. Further, due to the acoustic barriers required to attenuate noise impacts from the facility, the proposal has not demonstrated that the</p>

	outdoor play areas will receive adequate solar access and ventilation. For this reason, Council cannot support the proposal.												
4.11 Shade													
Regulation 114 Education and Care Services National Regulations The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	No, insufficient information Whilst shading has been indicated on the plans, its design, dimension, and material used has not been provided. Accordingly, the proposal cannot be considered for support.												
4.12 Fencing													
Regulation 104 Education and Care Services National Regulations Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the <i>National Construction Code</i> .	No, insufficient information Fencing details have not been provided in accordance with the NCC.												
4.13 Soil assessment													
Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required: 1. A soil assessment for the site of the proposed education and care service premises; 2. If a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken; and 3. A statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.	No See discussion under C2 of the Guidelines.												
Relevant regulation not addressed in Child Care Planning Guideline August 2021													
Educator to child ratios-centre based services													
Regulation 123 Education and Care Services National Regulations <i>The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—</i> <i>(a) for children from birth to 24 months of age—1 educator to 4 children;</i> <i>(b) for children over 24 months and less than 36 months of age—1 educator to 5 children;</i> <i>(c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;</i> <i>(d) for children over preschool age, 1 educator to 15 children.</i>	<table border="1"> <thead> <tr> <th>Age Group</th> <th>No. of Children</th> <th>Minimum Educators Required</th> </tr> </thead> <tbody> <tr> <td>0 – 2 years</td> <td>8</td> <td>2</td> </tr> <tr> <td>2 – 3 years</td> <td>10</td> <td>2</td> </tr> <tr> <td>3+ years</td> <td>30</td> <td>2.7 (3)</td> </tr> </tbody> </table> <p>Regulation 122 of <i>Education and Care Services National Regulations</i> states 'An educator cannot be included in calculating the educator to child ratio of a centre-based service unless the educator is working directly with children at the service'.</p> <p>If Council had supported the application, the applicant would be required to provide the minimum number of educators and support staff.</p>	Age Group	No. of Children	Minimum Educators Required	0 – 2 years	8	2	2 – 3 years	10	2	3+ years	30	2.7 (3)
Age Group	No. of Children	Minimum Educators Required											
0 – 2 years	8	2											
2 – 3 years	10	2											
3+ years	30	2.7 (3)											

7.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Consultant Landscape Architect/Arborist raised no objections to the removal of one tree (Jacaranda) subject to appropriate conditions of consent.

It is considered that the removal of the Jacaranda tree on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. Notwithstanding, the proposal is recommended for refusal for reasons stated throughout this report.

7.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 6 WATER CATCHMENTS

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (erosion control, etc) are able to be managed by conditions of consent.

7.5 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have an obvious history of a previous non-residential land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated. In addition, a Phase 1 Environmental Site Assessment prepared by Environmental Consulting Services was submitted with the application. The ESA noted:

“There appears to be minimal potential for significant or widespread contamination to be present associated historical Site activities other than maintenance of the house and garage. It is also noted that the existing house is now clad with cement sheeting that is considered likely to contain asbestos.

The results of the soil analysis indicate concentrations of some contaminants above the site assessment criteria for residential land use. This impact is likely to be the result of more than 100 years of residential occupation of the Site. Lead was detected at elevated concentrations in all soil samples and is anticipated to potentially result from lead paint and/or historic pesticides (lead arsenate) which is consistent with the arsenic concentrations detected.

Based on the findings of this preliminary site investigation, ECS considers the Site would be suitable for the proposed redevelopment and sensitive land use following the removal of the cladding (and any other potential asbestos material) from the house and from the ground surface around the house and removal of the surface soils from across the Site.

It is recommended that prior to the commencement of construction activities, including demolition work:

- A hazardous building material survey is undertaken to identify the presence of asbestos or any other hazardous material;*
- Hazardous building material and specifically ACM, are removed from the Site;*
- A clearance certificate is issued that confirms all asbestos material has been removed from the building and ground surface; and*

- *Surface soils should be excavated and removed from the Site. It is expected that soils to depth of 0.2-0.3m will need to be removed to mitigate the identified impacts which is consistent with the proposed development that will require excavation for a basement. However, all surface soils around the proposed basement should be removed from the Site.*

During the proposed development material to be excavated and disposed of off-site should be classified in accordance with the NSW EPA Waste Classification Guidelines 2014.

The process for removal of impacted surface soils and validation of the underlying natural clay should be documented in a Remediation Action Plan (RAP).

It is noted that a RAP did not accompany the application and it was requested from the applicant. However, to date, a RAP has not been submitted. Consequently, Council's Environmental Health Officer has not been able to complete the site assessment with regards to contamination. Given that the details of the process for removal of impacted soils and validation of the underlying clay have not been appropriately documented, Council cannot consider the application for approval and the site is therefore unsuitable for the proposed use as a Childcare Centre.

7.6 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development are outlined below.

Chapter 2	Comment
Clause 2.45 – electricity infrastructure	The proposal does require the provision of a new substation.
Clause 2.48 - Development likely to affect an electricity transmission or distribution network	N/A. The subject site is not within proximity to electricity infrastructure or substation.
Clause 2.100 – Development in or adjacent to rail corridors	N/A. The subject site does not adjoin a rail corridor.
Clause 2.119 – frontage to a classified road	N/A. The site does not have frontage to classified road.
Clause 2.122 – Traffic Generating Development	N/A. The development does not meet the criteria for referral to TfNSW under Schedule 3 of the SEPP.

7.6 STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS – CENTRAL RIVER CITY) 2021 – CHAPTER 6 URBAN RENEWAL PRECINCTS

The aim of Chapter 4 of the SEPP is to assess and identify sites as urban renewal precincts and to facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts.

Whilst the subject site is identified as being subject to Chapter 6 of the SEPP, Clause 6.8 of the Chapter exempts the proposal from the application of the Chapter's controls as it does not involve a subdivision or works that has a Capital Investment Value (CIV) of more than \$5,000,000.

8. Parramatta Local Environmental Plan 2023

Parramatta LEP 2023 was gazetted on 2 March 2023. Clause 1.8 of the LEP now repeals the following planning instrument which applies to the land:

- Auburn Local Environmental Plan 2010
- Holroyd Local Environmental Plan 2013
- Parramatta (former The Hills) Local Environmental Plan 2012
- Parramatta Local Environmental Plan 2011

Clause 1.8A Savings provision relating to development applications states:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

The current DA was lodged on 20 October 2022 and therefore shall be assessed under Parramatta Local Environmental Plan 2011.

9. Parramatta Local Environmental Plan 2011

The relevant matters considered under the PLEP 2011 for the proposed development are outlined below:

Clause 1.2 Aims of Plan

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to encourage a range of development, including housing, employment and recreation, that accommodates the needs of the existing and future residents, workers and visitors of Parramatta,*
- (b) *to foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city,*
- (c) *to identify, conserve and promote Parramatta’s natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
- (d) *to improve public access to the city and facilitate the maximum use of improved public transport, together with walking and cycling,*
- (e) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
- (f) *to protect and enhance the natural environment, including areas of remnant bushland in Parramatta, by incorporating principles of ecologically sustainable development into land use controls,*
- (g) *to improve public access along waterways where natural values will not be diminished,*
- (h) *to enhance the amenity and characteristics of established residential areas,*
- (i) *to retain the predominant role of Parramatta’s industrial areas,*
- (j) *to ensure that development does not detract from the economic viability of Parramatta’s commercial centres,*
- (k) *to ensure that development does not detract from the operation of local or regional road systems,*
- (l) *to ensure development occurs in a manner that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependant ecosystems,*
- (m) *to protect and enhance the viability, identity and diversity of the Parramatta City Centre and recognise it as the pre-eminent centre in the Greater Metropolitan Region,*
- (n) *to encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles.*

For reasons stated throughout this report, it is considered that the development does not satisfactorily meet the aims of the plan. In particular, the proposal does not encourage a range of development that accommodates the needs of the existing and future residents, workers and visitors of Parramatta. As such, the proposal will be recommended for refusal.

Clause 2.3 Zone objectives and Land Use Table

The aims and objectives for the R4 zone in Clause 2.3 – Zone Objectives are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.*
- *To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.*

Due to reasons stated throughout this report, the proposal is not consistent with these objectives and therefore cannot be considered for approval.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings Allowable: Max. 11m	Complies Proposed: 10.95m

Cl. 4.4 Floor space ratio Allowable: 0.8:1 (max. 564.8m ²)	Complies Proposed: 0.6:1 (466.9m ²)
Part 5 Miscellaneous provisions	
Cl. 5.1A Development on land intended to be acquired for public purposes	The subject site is not subject to land reservation acquisition.
Cl. 5.4 Controls relating to miscellaneous permissible uses	These provisions do not apply to the development proposal.
Cl. 5.6 Architectural roof features	An architectural roof feature is not proposed.
Cl. 5.7 Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.
Cl. 5.10 Heritage conservation	The subject site is located opposite 2 heritage listed items at 69 and 71 Boundary Street (Items I5 and I6 pursuant to Schedule 5 of Holroyd PLEP 2013). Council's Heritage Adviser has noted that the proposal does not appear to have considered a visual buffer to ensure that the visual relation with the local heritage items is unaffected by the proposal. For this reason, the proposal cannot be considered for approval.
Cl. 5.21 Flood Planning	The site is not flood prone.
Part 6 Additional local provisions	
Cl. 6.1 Acid sulfate soils	Yes, the site is identified as containing Class 5 Acid Sulfate Soil. An Acid Sulphate Soils Management Plan is not required to be prepared in this instance.
Cl. 6.2 Earthworks	Due to insufficient information, Council's Development Engineer is unable to complete the assessment of the earthworks proposed. Accordingly, the proposal is not considered to comply with this clause and cannot be considered for approval.
Cl. 6.4 Biodiversity protection	The site is not identified on this map.
Cl. 6.5 Water protection	The site is not identified on this map.
Cl. 6.6 Development on landslide risk land	The site is not identified on this map.
Cl.6.12 and Cl.6.13 Design Excellence	The site is not identified on these maps.

10. The Parramatta Development Control Plan 2011

A consideration of the relevant sections of the PDCP 2011 is provided below.

Development Control	Comment	Comply
Part 2 Site Planning		
2.4.1 Views and Vistas	The site is not identified as containing significant views.	Yes
2.4.2 Water Management	Refer to assessment under PLEP 2011.	Yes
2.4.3 Soil Management	Insufficient information has been received that allows Council's Development Engineer to satisfactorily address this control. As such, the proposal cannot be considered for approval.	No
2.4.4 Land Contamination	Refer to Section 7.6 of this report for a detailed discussion.	No
2.4.5 Air Quality	Were this application recommended for approval, standard conditions would have been imposed to ensure that the potential for increased air pollution is minimised during construction.	Yes
2.4.6 Development on Sloping Land	The development responds to the topography of the site. The building is stepped, and appropriate excavation and fill is proposed enabling an adequate building platform.	Yes
2.4.7 Biodiversity	Council's Consultant Landscape Architect/Arborist raised no objections to the removal of one (1) tree subject to appropriate conditions of consent. It is considered that the removal one (1) tree on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. The proposed replacement planting will ensure that the development will not result in an unacceptable loss of amenity values or finite	Yes

	natural resources. Notwithstanding, the proposal cannot be supported for reasons stated throughout this report.	
2.4.8 Public Domain	Due to the narrowness of the site, the driveway access dominates the streetscape resulting in extensive hard areas and limited landscaping connecting the site to the public domain. Further, the use of highlight windows along the front elevations reduces direct views / passive- surveillance to the public domain.	No
Part 3 Development Principles		
3.2.1 Building Form and Massing	<p>The current character of the neighbourhood is a mix of low and high density residential in nature, which consists of mainly single, and three (3) storey detached dwelling houses and residential flat buildings. The area is undergoing a transition and the desired future character under LEP 2023 is for high-density residential developments.</p> <p>The site is considered too narrow for a 3 storey Childcare Centre and results in a poor design outcome with limited side setbacks which exacerbates the perception of bulk and scale on a pedestrian level. Further, the building mass is accented due to the extensive blank walls and minimal fenestrations and openings. For these reasons, DEAP noted that the proposal is too dense for the site and its context.</p> <p>Accordingly, the building form and mass is incompatible with the character and spatial characteristics of the locality.</p>	No
3.2.2 Building Façade and Articulation	The proposal does not incorporate adequate articulation, materials, or fenestrations in the composition of the facades and therefore does not break up the visual scale and bulk of the development or the perception of building mass.	No
3.2.3 Roof Design	The roof design appropriately responds to contemporary design.	Yes
3.2.5 Streetscape	The proposed development is incompatible with the existing and future character of the locality. Due to the restrictive nature of the site, the driveway dominates the streetscape with limited opportunities for landscaping and screening. Additionally, the presentation of the built form is lacking and unremarkable as it attempts to ameliorate the adjoining developments from amenity impacts. The overall presentation on the streetscape is of a built form that is too dense for the site and is inconsiderate of its context particularly the heritage items opposite the site and the one-storey nature of adjoining developments. In this regard, the proposal does not positively contribute to the streetscape.	No
3.2.6 Fences	<p>No front fences are proposed.</p> <p>The Acoustic Report requires acoustic barriers along the boundaries to attenuate the adjoining properties from acoustic impacts of the facility. The rear boundary acoustic barrier is to be provided at a height of 1.9m and the east and west barriers are to be 1.8m.</p>	Yes
3.1.3: Building Height Maximum: 11m	Proposed: 10.95m	Yes
3.1.3 Floor Space Ratio	Refer to assessment under PLEP 2011.	Yes
3.1.3: Minimum Site Frontage	Refer to Part 5 of this table	N/A
3.13: Front Setback Min. 5m – 9m	Proposed - 6.5m	Yes
3.13: Side Setback	Refer to Part 5 of this table	No
3.13: Rear Setback Min. 15% of length of the site (Min. 6.88m)	Proposed – 9.93m	Yes

3.1.3: Landscaped Area Min. 40% of the site (Min. 282.4m ²)	Proposed – 196m ² (27.7%)	No
3.1.3: Deep Soil Min. 30% of the site with 4m x 4m dimensions (Min. 211.8m ²)	Proposed – 18m ² (2%) As the basement has not been designed to be within the building footprint, the amount of deep soil zones has on the site are limited to the front setback.	No
3.3.3 Visual and Acoustic Privacy	Refer to Section 7.3.1 of this report for further discussion regarding the childcare centre.	No
3.3.4 Acoustic Amenity	No major roads or railway lines adjoin the site.	Yes
3.3.5 Solar Access and Cross Ventilation	Refer to Section 7.3.1 of this report for further discussion regarding the childcare centre. It is noted however, that adjoining development to the north, east and west will retain 3 hours of solar access during mid-winter, including to their respective private open space areas.	No
3.3.6 Water Sensitive Urban Design	Insufficient information has been received with regards to Water Sensitive Urban Design requirements per PDCP 2011 controls. Accordingly, the proposal cannot be considered as compliant with this provision.	No
3.3.7 Waste Management	Council's Waste Officer reviewed the proposal and upon review, raised no objections to the development. If the application had been recommended for approval, the recommended conditions would have been imposed on the consent.	Yes
3.4.1 Culture and Public Art	An arts plan is not required as the application does not have a CIV of more than \$5,000,000.00 and is not located within: - A local town centre - Land zoned B2 Local Centre or B4 Mixed Use - Land with a site area greater than 5000m ²	N/A
3.4.2 Access for People with Disabilities	Council's Universal Access and Design Officer raised concerns with regards to accessibility throughout the development. These issues have not been satisfactorily addressed. Accordingly, Council cannot consider the proposal for approval.	No
3.4.3 Amenities in Buildings Available to the Public	The proposal is not a public building.	N/A
3.4.4 Safety and Security	Refer to Section 7.3.1 for discussion regarding the childcare centre.	Yes
3.4.5 Housing Diversity and Choice	The proposal does not contain a residential component.	N/A
3.5 Heritage	Refer to PLEP 2011 section of this report above.	Yes
3.6.1 Sustainable Transport	As the development is for a childcare centre a car share spaces is not required.	N/A
3.6.2 Parking and Vehicular Access	Refer to Part 5 of this table.	Yes
3.6.3 Accessibility and Connectivity	Council's Universal Access and Design Officer reviewed the proposal and raised concerns with regards to accessibility throughout the development. Council requested amended plans addressing these issues but to date, have not received a response. Accordingly, the proposal cannot be considered for approval.	No
3.7.1 Residential Subdivision - general	The application does not propose a subdivision of the site.	N/A
3.7.2 Site Consolidation and Development on Isolated Sites	The proposal does not result in the isolation of any adjoining properties. It is noted that previous advice under the Pre-Lodgement meeting stated that amalgamation with adjoining properties should be considered. The application has not attempted to address these concerns.	No

	Further, DEAP noted that the narrowness of the site, the inadequate side setbacks and the 3-storey scale would constrain the future development of adjacent sites.	
Part 5 Other Provisions		
5.2 Child Care Centres		
5.2.1 Development to which this section of the DCP applies	The proposed development is for a new childcare centre.	Yes
5.2.3.1 Site Selection	This control is not relevant in accordance with the requirements of Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.	N/A
5.2.3.2 Child Care Centres in Residential Zones	The proposal complies with the relevant FSR, height and front setbacks stipulated within this DCP.	Yes
Except where provided by this Section, the childcare centre shall comply with the relevant height, floor space ratio, minimum frontage, minimum street and side setback and building envelope controls for the respective Residential zones contained in both the relevant environmental planning instrument applying to the land and any other section applying to this land.	Site requirements such as area or minimum frontage under the DCP have not been taken into consideration as these are non-discretionary development standards outlined within Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.	
The minimum side setback for a new child care centre is 2 metres, except where the proposal involves conversion of an existing dwelling house then the setbacks shall comply with the requirements of Part 3 of this DCP.	Whilst the proposal provides a 2m side setback, this control envisages childcare centre facilities as being of a one-storey nature where outdoor play areas are located on the ground floor. Elsewhere in the DCP also states that any multi storey childcare centres should only locate the childcare centre component on the ground floor and storage and meeting spaces be located on the upper floors. Given that the proposal is 3 storeys in height and contains outdoor play areas on the upper storeys, a minimum 2m side setback is inappropriate in ameliorating amenity impacts to adjoining properties whilst ensuring the childcare facility fosters appropriate solar access and ventilation. Despite the compliance with this numerical control, the proposal as a 3-storey facility is not considered to be in the spirit of the control.	No
On sites zoned Residential:	The childcare centre is designed in a form of a residential flat building where outdoor play areas are located on the ground and upper floors. Whilst acoustic barriers are provided on the perimeter of each outdoor play area on the upper floors, it has resulted in a built form that lacks articulation, void of visual interest and extensive blank walls. As the development results in a poor design outcome that does not contribute to the local context, the proposal cannot be considered for approval.	No
<ul style="list-style-type: none"> The child care centre building is to be designed so as to appear as a dwelling house when viewed from the street. However, this does not preclude the use of ‘U’ shaped or ‘L’ shaped buildings for the purpose of minimising acoustic impacts on neighbouring properties as described in the section on Acoustic and Visual Privacy. The front setback area may only be used for access, parking and landscaping purposes, shall not be used as an outdoor play space and shall not be included in calculations of unencumbered outdoor space 	The front setback is not used for the purposes of outdoor play areas.	Yes

<ul style="list-style-type: none"> • Council encourages the use of single storey buildings in Residential zones for the purposes of child care centres for reasons of safety and access. In the case of a building that is higher than single storey, the above ground levels of the building should only be used for the purposes of storage and staff facilities. 	<p>The development is a 3 storey building that locates childcare components such as indoor and outdoor play areas on the upper floors. Accordingly, the proposal cannot be supported.</p>	<p>No</p>
<p>Minimum indoor and outdoor space and maximum number of child care places</p>		
<p>Unencumbered space to be provided per child care place shall comply with the requirements of the Regulation. At the time this DCP was made the Regulation required a minimum of 3.25 square metres of indoor unencumbered space per place and a minimum of 7 square metres per place for outdoor unencumbered space.</p>	<p>Indoor unencumbered space – complies Outdoor unencumbered space – complies</p>	<p>Yes</p>
<p>The maximum number of child care places to be provided in any child care centre in a Residential zone is 40. Council will only permit a child care centre in a Residential zone with more than 40 places where:</p> <ul style="list-style-type: none"> • A minimum of 33% of the places are provided for children under 2 years of age; and • Best practice standards of both indoor and outdoor unencumbered space is to be provided. 	<p>Site requirements such as the number of children under the DCP have not been taken into consideration as these are non-discretionary development standards outlined within Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.</p>	<p>N/A</p>
<p>Hours of operation</p>		
<p>Hours of operation will be generally limited to between 7am and 7pm Monday to Friday.</p>	<p>The proposal complies. Notwithstanding, this control has been taken into consideration in accordance with the requirements of Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.</p>	<p>Yes</p>
<p>Landscaping</p>		
<p>A landscape buffer with a minimum width of 1 metre shall be provided along the side and rear boundaries of the development. A landscaping setback abutting the street frontage with a minimum width of 2 metres shall be provided.</p>	<p>Whilst a side setback of 2m is provided, there is no landscape buffer along the side boundaries. There appears to be a landscape buffer to the rear, however the plans do not indicate dimensions. The front setback is provided with some landscaping but is limited due to the provision of the driveway and access to the facility.</p>	<p>No</p>
<p>5.2.3.4 Access and Parking</p>		
	<p>Whilst there is adequate parking which is compliant with the parking rates outlined elsewhere in this report, Council's Traffic Engineer raised a concern with regards to the driveway ramp as it currently does not comply with the relevant Australian Standards. This is a consequence of the narrowness of the site and that the shape of the basement is limited. As amended plans have not been provided that satisfactorily addresses these issues, Council cannot support the application.</p>	<p>No</p>

<p>5.2.3.5 Acoustic and Visual Privacy</p> <p>Where feasible, designs should be based on a ‘U’ shaped or ‘L’ shaped layout for the buildings, with external activity areas positioned such that the building structures act as a noise barrier (refer to Figures A10.2 and A10.3 in Appendix A10). If one of these layouts is not adopted, the applicant must provide a valid justification to Council as to why an alternative approach is more suitable or necessary.</p> <p>Orienting the building and outdoor play spaces having regard to impacts on neighbours (for example, locating play areas away from neighbouring bedrooms).</p> <p>Maximising the separation between the active outdoor play area (as opposed to passive activities such as sand pits, painting, storytelling etc.) and the façade of any neighbouring premises.</p> <p>Ensuring openable windows at the child care centre and external play areas do not have a direct line of sight to neighbouring sensitive uses</p> <p>Locate pedestrian access ways and ramps away from neighbouring sensitive premises where practicable.</p> <p>Acceptable Acoustic Management Measures</p> <p>The preferred approach to acoustic management is through provision of physical measures such as barriers, enclosures, changes to glazing and provision of air conditioning. Management measures that must be implemented and monitored by staff and parents are not considered appropriate for a well-designed child care centre.</p> <p>Acceptable acoustic mitigation solutions include, but are not necessarily restricted to, the following:</p> <ul style="list-style-type: none"> Erection of noise barriers, which may include fencing types and other barriers that minimise noise transmission, to a maximum height of 2m for a flat site. Noise barriers in excess of 2m in height will be considered for sloping sites (eg. where a barrier is positioned on a retaining wall due to changes in levels). 	<p>The narrowness of the site results in a built form designed as a residential flat building where indoor and outdoor play areas are located on the upper floors. As a result, the outdoor play areas have an interface with adjoining developments increasing amenity impacts to these sites. The proposal has attempted to mitigate these issues with acoustic barriers and elevations with limited fenestrations and openings, however this results in unrelenting facades that is unsuitable on the streetscape and is uncharacteristic of the locality. For such reasons, the proposal cannot be supported.</p> <p>As noted above, the outdoor play areas are located on the upper floors which have an address to the adjoining properties. The proposal provides acoustic barriers which results in a poor design outcome. It also reduces solar access and ventilation to these areas.</p> <p>Windows and outdoor play areas address neighbouring properties. The proposal attempts to mitigate amenity impacts with the use of highlight windows and acoustic barriers. However, as stated above, this limits the amount of solar access and ventilation to the play areas.</p> <p>The driveway ramp has an interface with the adjoining property to the east.</p> <p>The childcare centre does not comply in this instance as stated above.</p> <p>Acoustic barriers are proposed. The incorporation of the barriers to the design of the built form is not considered to be acceptable on the streetscape presentation nor does it contribute to the facilities ability to achieve adequate ventilation and solar access to the play areas.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>N/A</p>
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<ul style="list-style-type: none"> The majority of internal surfaces are to utilise absorptive materials as opposed to reflective to reduce the potential for reverberant fields to increase noise emissions and reduce speech intelligibility. Provision of mechanical ventilation and fixed windows (at the child care centre or adjacent receptors) where windows and doors must remain closed to achieve the appropriate noise criteria. <p>The following approaches are not considered appropriate for management of noise emissions from child care centre activities:</p> <ul style="list-style-type: none"> Restricting the number of children utilising external play areas at any one time. Restricting the time periods and/or times of day that children are allowed to use external play areas. Staging of outdoor activities to reduce the number of children playing outdoors at any one time. 	<p>The proposal does not incorporate this to the built form.</p> <p>Fixed windows are not proposed.</p> <p>The Acoustic Report recommends that windows are to be closed during loud activities and limit the number of children that use the outdoor play areas. This is not considered to be acceptable as it cannot be regulated and may not be appropriate for the facilities program.</p>	<p>N/A</p> <p>No</p>
<p>5.2.3.6 Indoor Areas</p>	<p>Refer to Section 7.3 of this Report.</p>	<p>Yes</p>
<p>5.2.3.7 Outdoor Areas</p>	<p>Refer to Section 7.3 of this Report.</p>	<p>Yes</p>

11. Development Contributions

As this Development Application was lodged on 20 October 2022, the City of Parramatta (Outside of Parramatta) CBD Contributions Plan 2021 applies to the land. If the application had been recommended for approval, a standard condition of consent would have been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

12. Bonds

If the application had been recommended for approval, pursuant to Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition would have been imposed on the consent requiring the Security Bond to be paid prior to the issue of a Construction Certificate.

13. EP&A Regulation 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection would have been addressed by appropriate consent conditions if the application had been recommended for approval.

14. The likely impacts of the development

The assessment demonstrates that the proposal will have significant adverse impacts upon any adjoining properties and the environment through non-compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as tree removal and excavation, and built environment impacts such as traffic and built form. In the context of the site and the assessments provided by Council's experts, the development is considered unsatisfactory in terms of environmental impacts and cannot be considered for support.

15. Suitability of the Site

As stated throughout this report, a childcare centre is unsuitable on the subject site due to the narrow nature of the site. Whilst the built form has been designed to protect adjoining properties from adverse amenity impacts, this has resulted in a poor design outcome on the streetscape and on the internal amenity of the childcare centre.

Investigations and documentations have been provided which have not adequately demonstrated that the site can be made suitable for the proposed development and is therefore inconsistent with the land use planning framework for the locality.

The accessibility of the site, vehicle driveway and the ability of the site to drain stormwater have not been adequately addressed to ensure that it does result in adverse impact on the proposed development.

For the above reasons and those stated throughout this report, the site is not considered to be suitable for the proposed development.

16. Public Consultation

In accordance with the Parramatta Notification Plan the Development Application was notified and advertised on one (1) occasion between 28 October 2022 and 11 November 2022. As a result of the notification period, ten (10) unique submissions were received during the notification period and one (1) submission outside the notification period. The issues raised in these submissions and Council's response are provided below.

Issue	Response
<p>Traffic Movements and Congestion/Parking Unacceptable increase in traffic movements and congestion and parking.</p>	<p>Council's Traffic Engineer has not been able to determine the traffic impacts of the proposal as insufficient information has been received with regards to Council's request to amend the driveway ramp to comply with the relevant Australian Standards. As an assessment of the traffic impacts cannot be completed, the application cannot be considered for approval.</p>
<p>Tree Removal Environmental impacts of removal of mature trees</p>	<p>Council's Landscape Officer has reviewed the proposed removal of existing trees on site to accommodate the built form. Upon review, Council's Landscape Officer raised no objections. Notwithstanding, as stated throughout this report, Council cannot consider the application for approval.</p>
<p>Health Risk (Pollution / Air Quality) Due to the site's proximity to the Audi Service Centre and the M4</p>	<p>SEPP (Transport and Infrastructure) 2021 – Chapter 3 specifically identifies sites which require additional consideration with regards to air pollution. These sites are generally within / or near industrial zones or adjoins motorways. The site is neither within / or near industrial zones. The subject site also does not adjoin a motorway. As such, it is unlikely that the proposal would be adversely impacted by its proximity to the Audi Service Centre or the M4. Despite this, the proposal cannot be supported for reasons stated throughout this report.</p>
<p>Amenity (Quality of life) Amenity concerns for neighbouring properties (Negative impact on quality of life because of excessive noise)</p>	<p>This matter is not considered determinative to the assessment of this Application. As previously stated, the application in its current form cannot be considered for support as it has not demonstrated that it has adequately mitigated amenity impacts on adjoining properties because of the proposal.</p>
<p>Amenity (Safety and Security)</p>	<p>This matter is not considered determinative to the assessment of this Application. Notwithstanding, there is no correlation between an increase in local crime and homeless because of a childcare centre within a residential location.</p>
<p>Solar Access</p>	<p>Due to the site orientation, the properties immediately to the north, east and west of the site will receive more than 3 hours of solar access to their affected elevations as well as their respective private open space areas during mid-winter. This is compliant with Council's DCP controls. However, due to its design, the proposal has not demonstrated that internal and external play areas achieve the same solar access benefits.</p>

Privacy	The design of the proposal attempts to mitigate overlooking opportunities to and from the site with limited fenestrations and openings and the implementation of acoustic barriers, however the design is a poor design outcome particularly on the streetscape and its ability to relate to the wider locality. It is also noted that childcare centres in residential zones are not envisaged in the form of residential flat buildings as it results in adverse amenity impacts within and external of the site.
Acoustic impacts	The acoustic impacts of the proposal on adjoining properties and within the development are discussed in detail throughout the report. Council has reviewed the proposal and considers that adequate acoustic measures have been provided to protect sensitive users within the development and external the site. As a result, however, the development has been designed that results in a poor design outcome and therefore cannot be supported.
Parking / Pick Up / Drop Off Areas Safety of Children during drop off and pick up	It is noted that the proposal for drop off and pick up for children is located within the basement to ensure the safety of the child. Whilst the proposal provides for the required number of parking spaces under the SEPP (Transport and Infrastructure) 2021 – Chapter 3, Council’s Traffic Engineer has not been able to complete the assessment of the parking and traffic impacts as inefficient information has been received with regards to the driveway ramp and its lack of compliance with the relevant Australian Standards.
Heritage	This is discussed elsewhere in this report. Council’s Heritage Adviser does not the proposal in its current form as it fails to consider the proposal’s impact on the heritage items opposite the subject site.
Property valuation impacts	Property values are not a matter of consideration under Section 4.15 of the EP&A Act.

17. Public interest

For reasons discussed throughout this report, the proposal would be contrary to the public interest.

18. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are not satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for future users. It is considered that the proposal insufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development, is inconsistent with the intentions of the relevant planning controls and does not represent a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. The proposal has not demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

For these reasons, it is considered that the proposal is **not** satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is recommended for refusal.

19. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **refuse** development consent to DA/823/2022 for the demolition of existing structures, tree removal and construction of a 3 storey, 48 place childcare centre with basement parking for 12 vehicles for the following reasons:
1. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 3 Educational Establishments:
 - a) Childcare Planning Guidelines Part 3.1 Site selection and location

- b) Childcare Planning Guidelines Part 3.2 Local character, streetscape and the public domain interface
 - c) Childcare Planning Guidelines Part 3.3 Building orientation, envelope and design
 - d) Childcare Planning Guidelines Part 3.4 Landscaping
 - e) Childcare Planning Guidelines Part 3.5 Visual and acoustic privacy
 - f) Childcare Planning Guidelines Part 3.6 Noise and Air Pollution
 - g) Childcare Planning Guidelines Part 3.8 Traffic, Parking and Pedestrian Circulation
 - h) Education and Care Services National Regulations Part 4.1 Indoor space requirements (storage areas)
 - i) Education and Care Services National Regulations Part 4.2 Laundry and hygiene facilities
 - j) Education and Care Services National Regulations Part 4.4 Ventilation and natural light
 - k) Education and Care Services National Regulations Part 4.6 Nappy change facilities
 - l) Education and Care Services National Regulations Part 4.7 Premises designed to facilitate supervision
 - m) Education and Care Services National Regulations Part 4.8 Emergency and evacuation procedures
 - n) Education and Care Services National Regulations Part 4.10 Natural environment
 - o) Education and Care Services National Regulations Part 4.11 Shade
 - p) Education and Care Services National Regulations Part 4.12 Fencing
 - q) Education and Care Services National Regulations Part 4.13 Soil assessment
2. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land:
 - a) Clause 4.6 Contamination and remediation to be considered in determining development application
 3. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Local Environmental Plan 2011:
 - a) Clause 2.1 – the development is inconsistent with the aims of Parramatta Local Environmental Plan 2011
 - b) Clause 2.3 - the development is inconsistent with the zone objectives of the R4 High Density Residential zone
 - c) Clause 5.10 – the proposal has failed to consider impacts on neighbouring heritage listed items.
 - d) Clause 6.2 – an assessment of the proposal with regards to earthworks could not be completed due to insufficient information required by Council’s Development Engineers
 4. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Development Control Plan 2011:
 - a) Section 2.4.3 Soil Management
 - b) Section 2.4.4 Land Contamination
 - c) Section 2.4.8 Public Domain
 - d) Section 3.2.1 Building Form and Massing
 - e) Section 3.2.2 Building Façade and Articulation
 - f) Section 3.2.5 Streetscape
 - g) Section 3.1.3: Landscaped Area
 - h) Section 3.1.3: Deep Soil
 - i) Section 3.3.3 Visual and Acoustic Privacy
 - j) Section 3.3.5 Solar Access and Cross Ventilation
 - k) Section 3.3.6 Water Sensitive Urban Design
 - l) Section 3.4.2 Access for People with Disabilities
 - m) Section 3.5 Heritage
 - n) Section 3.6.3 Accessibility and Connectivity
 - o) Section 3.7.2 Site Consolidation and Development on Isolated Sites
 - p) Section 5.2.3.2 Child Care Centres - Child Care Centres in Residential Zones
 - q) Section 5.2.3.4 Child Care Centres – Access and Parking
 - r) Section 5.2.3.5 Child Care Centres – Acoustic and Visual Privacy
 5. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for built environment and suitability of the site.
 6. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts generated by the development due to non-compliances with the applicable planning controls is not beneficial for the local community and as such, is not in the wider public interest.

B. That Council advise those who made a submission of the determination.