



City of Parramatta	
File No:	DA/116/2023

## SECTION 4.15 ASSESSMENT REPORT

### Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/116/2023
<b>Subject Property:</b>	Lot 5 DP 542112, 73 Murray Farm Road, CARLINGFORD, NSW 2118
<b>Proposal:</b>	Demolition of existing structures and construction of a two storey 65 place childcare centre with 16 basement car parking spaces.
<b>Date of receipt:</b>	23 February 2023
<b>Applicant:</b>	J Glanville
<b>Owner:</b>	Mr M J Glanville and Mrs E M Glanville
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	Twelve (12) unique submissions
<b>Recommendation:</b>	<b>Refusal</b>
<b>Assessment Officer:</b>	Najeeb Kobeissi

### Legislative Requirements

<b>Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979</b>	<ul style="list-style-type: none"><li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li><li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li><li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li><li>• Parramatta Local Environmental Plan 2023 (PLEP 2023)</li><li>• Parramatta (former The Hills) Local Environmental Plan 2012 (PLEP 2012)</li><li>• The Hills Development Control Plan 2012 (THDCP 2012)</li></ul>
<b>Zoning</b>	R2 Low Density Residential
<b>Bushfire Prone Land</b>	No
<b>Heritage</b>	No
<b>Heritage Conservation Area</b>	No
<b>Designated Development</b>	No
<b>Integrated Development</b>	No
<b>Clause 4.6 variation</b>	No
<b>Delegation</b>	<ul style="list-style-type: none"><li>• <b>Parramatta Local Planning Panel (PLPP)</b> due to receiving 10 or more unique submissions during the notification period.</li></ul>

## 1. Executive Summary

Development application DA/116/2023 was lodged on 23 February 2023 for a 65 Place childcare centre.

The application had been with council for 48 days when a deemed refusal was lodged with the Land and environment court on 11 April 2023.

In accordance with the Parramatta Notification Plan the Development Application was notified and advertised between 7 March 2023 and 28 March 2023. Twelve (12) submissions were received. The issues raised have been addressed in the report.

### **Section 4.15 Assessment Summary**

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. Consideration of technical matters by Council's engineering and landscaping departments has identified substantial and fundamental issues of concern.

The proposal does not demonstrate reasonable compliance with the statutory requirements with variation to some controls in the Child Care Planning Guideline 2021 and the current DCP that cannot be supported.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application No. DA/116/2023 be refused.

In its context, this development proposal is not able to be supported in terms of the development's context, function, environmental impacts and overall lack of public benefit.

## 2. Site Description and Conditions

The subject site is legally described as Lot 5 DP 542112 and commonly known as 73 Murray Farm Road, Carlingford and has an approximate area of 945m<sup>2</sup>.

The lot currently comprises two storey dwellings with vehicular access provided off Murray Farm Road. The site is located on sloping land, falling from the southwest frontage corner toward northeast rear corner.

The site has a street frontage of approximately 20.115m to Murray Farm Road and is oriented north-south towards.

It is located within a residential area comprising of low-density residential developments and to the rear is the Murray Farm Reserve. The reserve is accessed by pedestrians and vehicles from the eastern adjacent site known as 75 Murray farm Road.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in **Figures 1 - 8** below.





**Figure 1:** Aerial view of the subject site and surrounds. Subject site outlined in red. Source: Nearmap: April 2023.

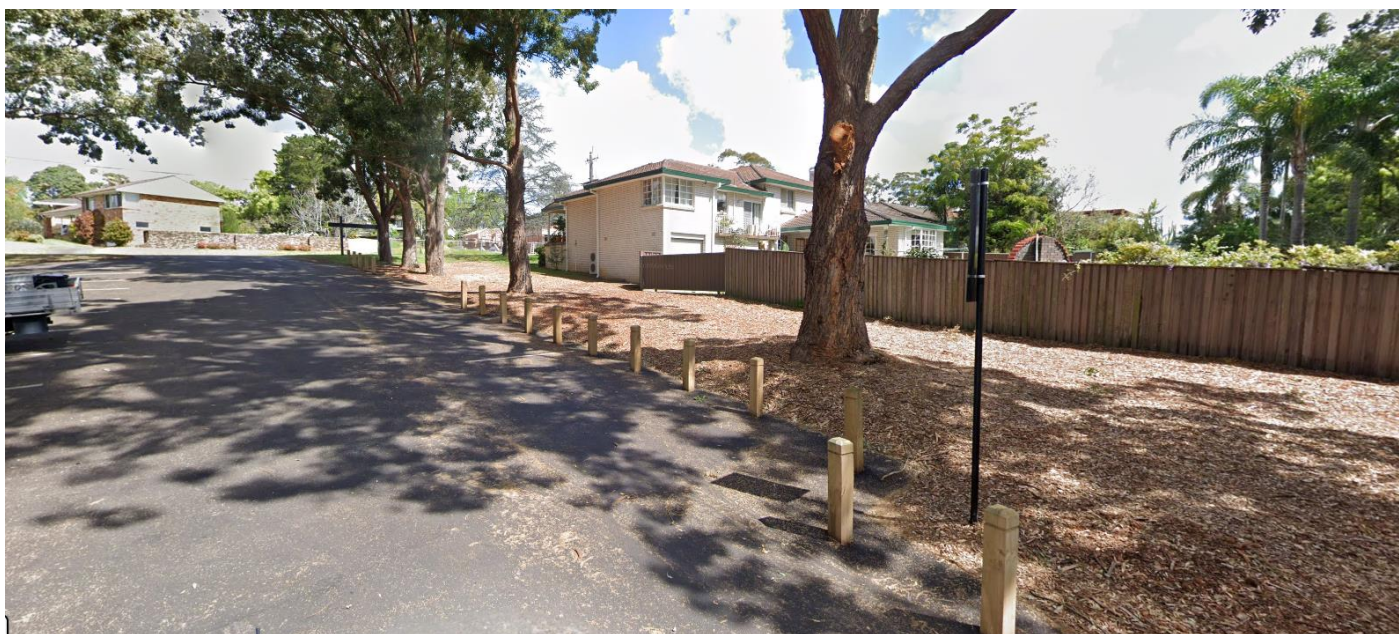


**Figure 2:** Subject site as viewed from Murray Farm Road. Source: Site Inspection.





**Figure 3:** Subject site as viewed from Murray Farm Road adjacent to the entrance to the reserve. Source: Site Inspection.

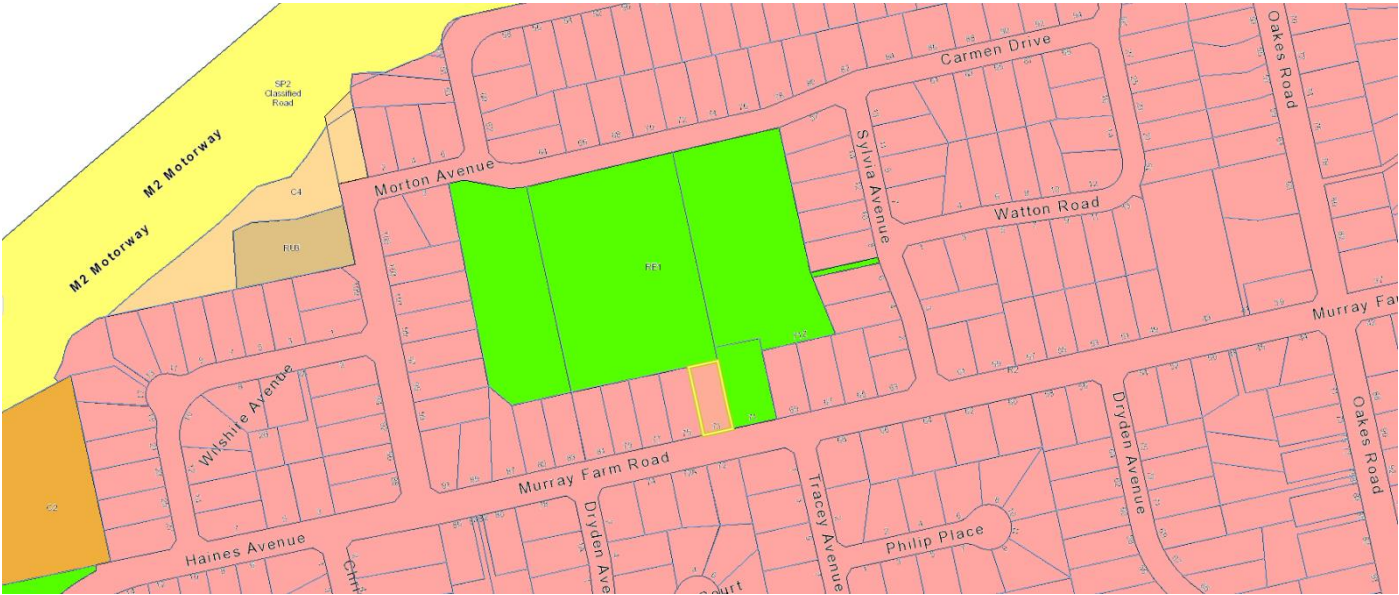


**Figure 4:** The Subject Site viewed from within Murray Farm Reserve. Source: Google Street View.

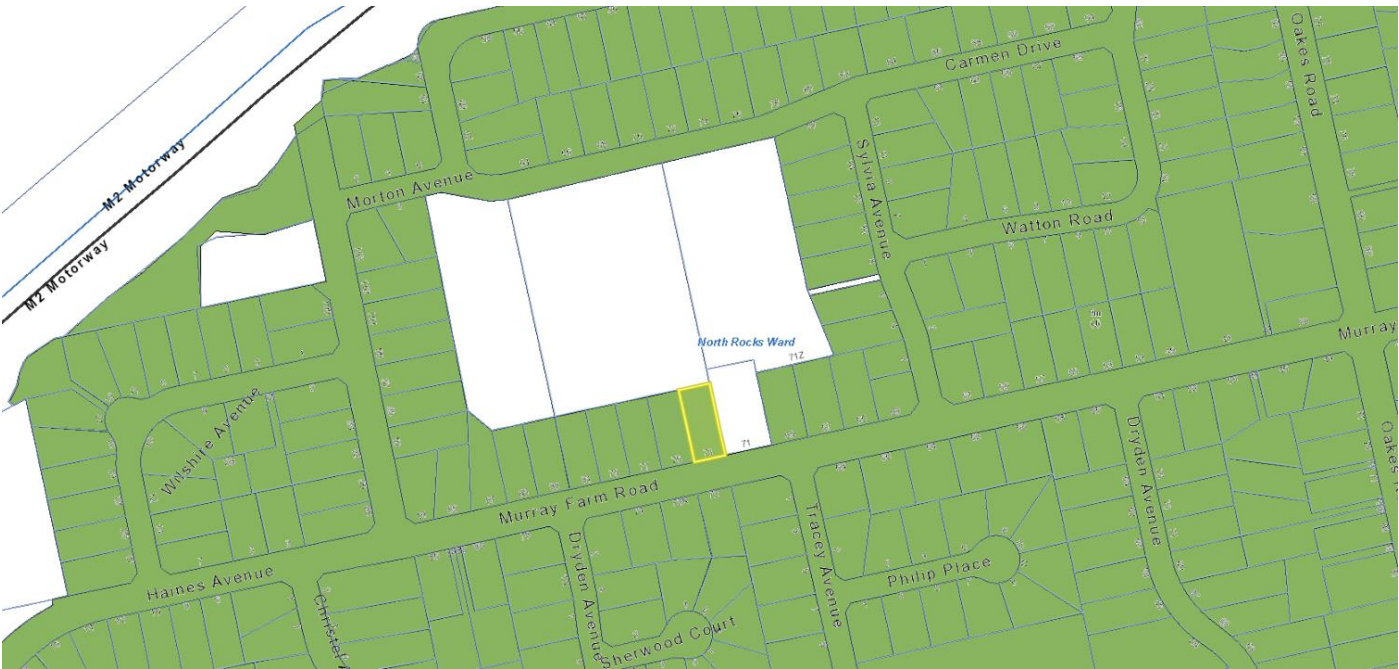




**Figure 5:** View into Murray Farm Reserve with the subject site on the left. Source: Google Street View.

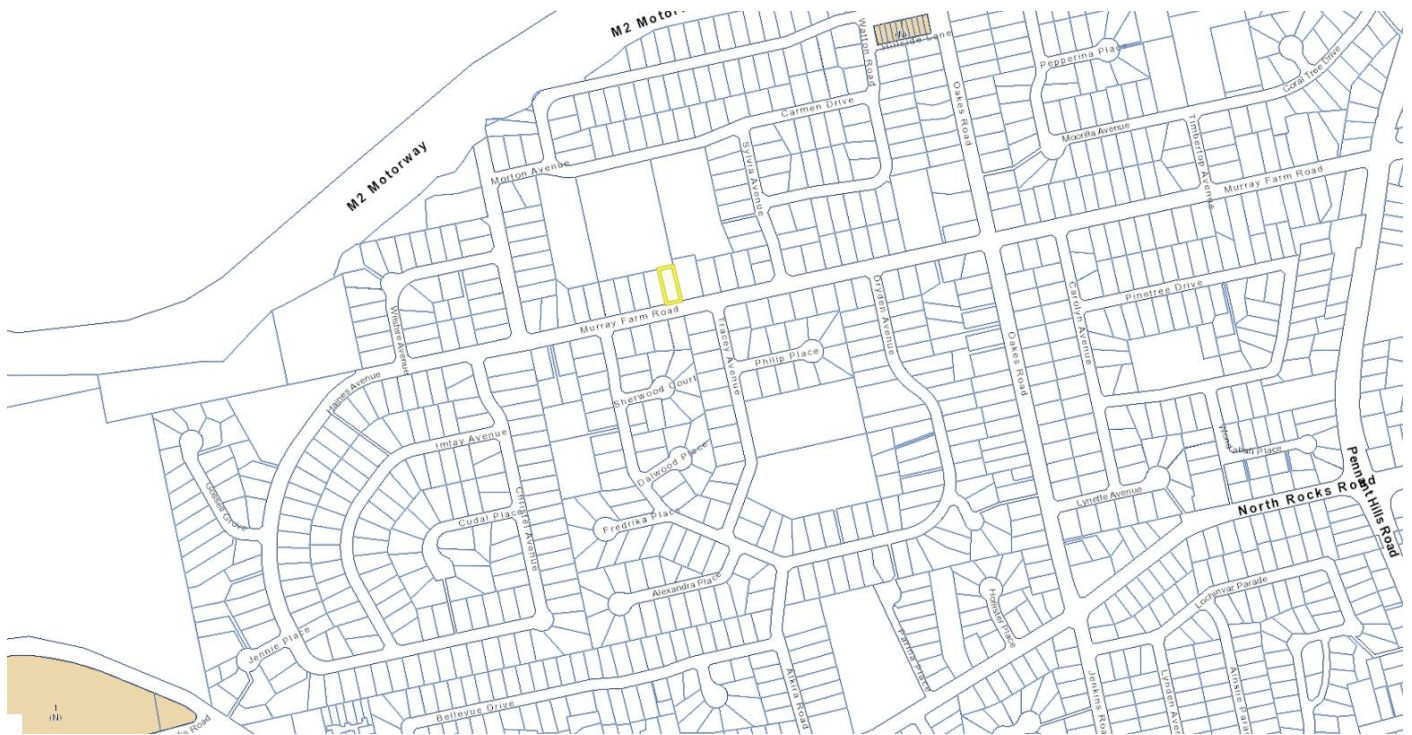


**Figure 6:** THLEP 2012 Zoning map with the subject site highlighted in yell. Source: Global Information System Map



**Figure 7:** THLEP 2012 Building Height map with the subject site highlighted in yell. Source: Global Information System Map.





**Figure 8:** THLEP 2012 Floor Space Ratio map with the subject site highlighted in yellow (not identified). Source: Global Information System Map

### 3. The Proposal

Development Application DA/116/2023 was lodged on 23/02/2023 for the construction of a two storey 65 place childcare centre. Specifically, the application seeks approval for:

- Enabling works which comprise:
  - Demolition of all existing structures on site
  - Removal of 4 trees throughout the site
- Construction of a two storey child care centre

#### Basement Level

Fifteen (15) car parking spaces, one (1) disabled space with a shared zone, bin/waste room, a lift and access stairs.

#### Ground Floor Level

Two (2) playroom's, outdoor play area, office/reception room, nappy room, laundry, porch/foyer, storeroom, one (1) children's toilet, lift, access stairs, disabled toilet and.

#### First Floor Level

Kitchen, laundry, play room (3-6) year, kids water closet, staff room, access stairs, one (1) disabled bathroom and a lift.

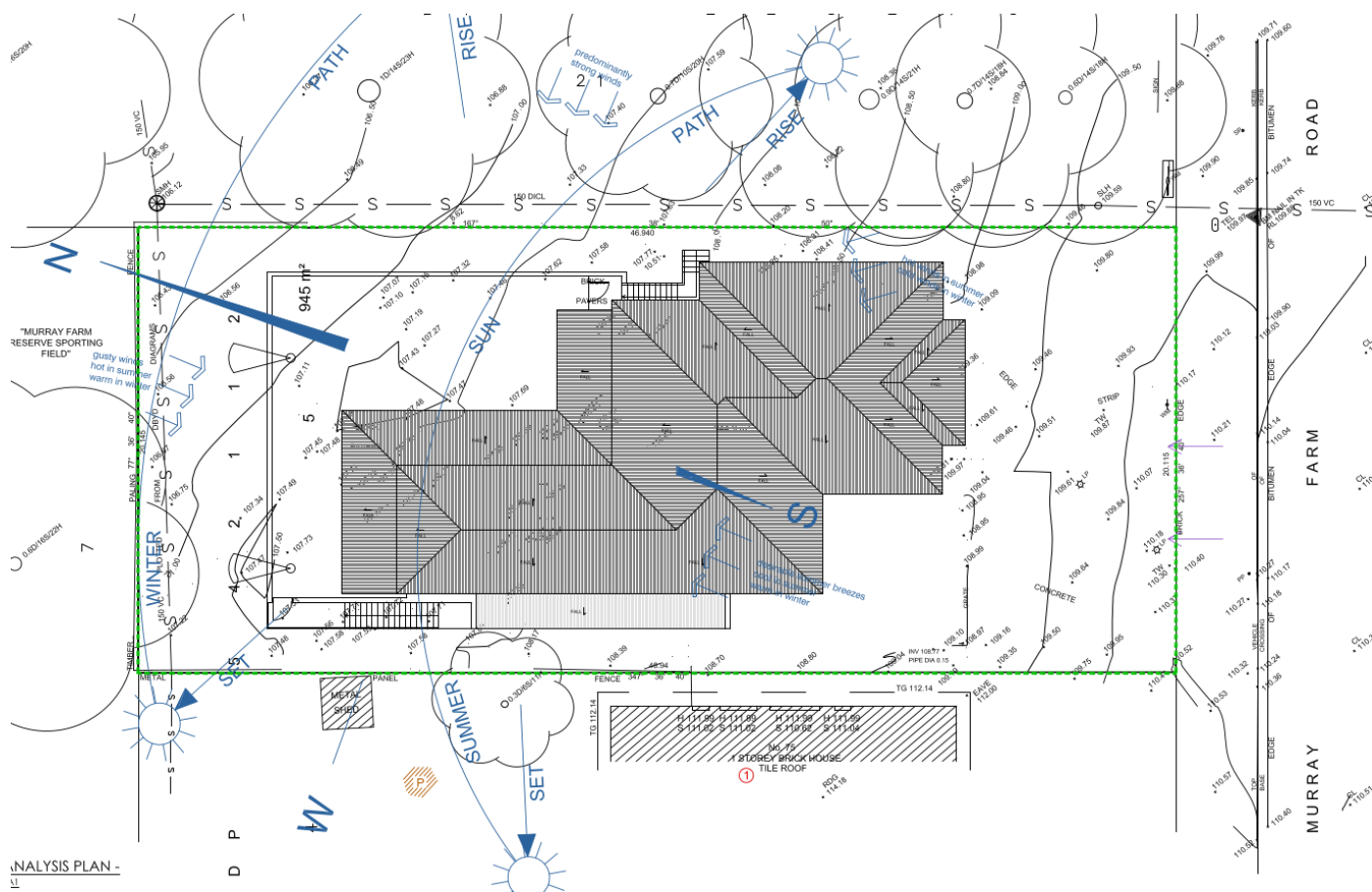


Figure 9: Site Plan. Source: Submitted Architectural plans prepared by Janssen Designs.

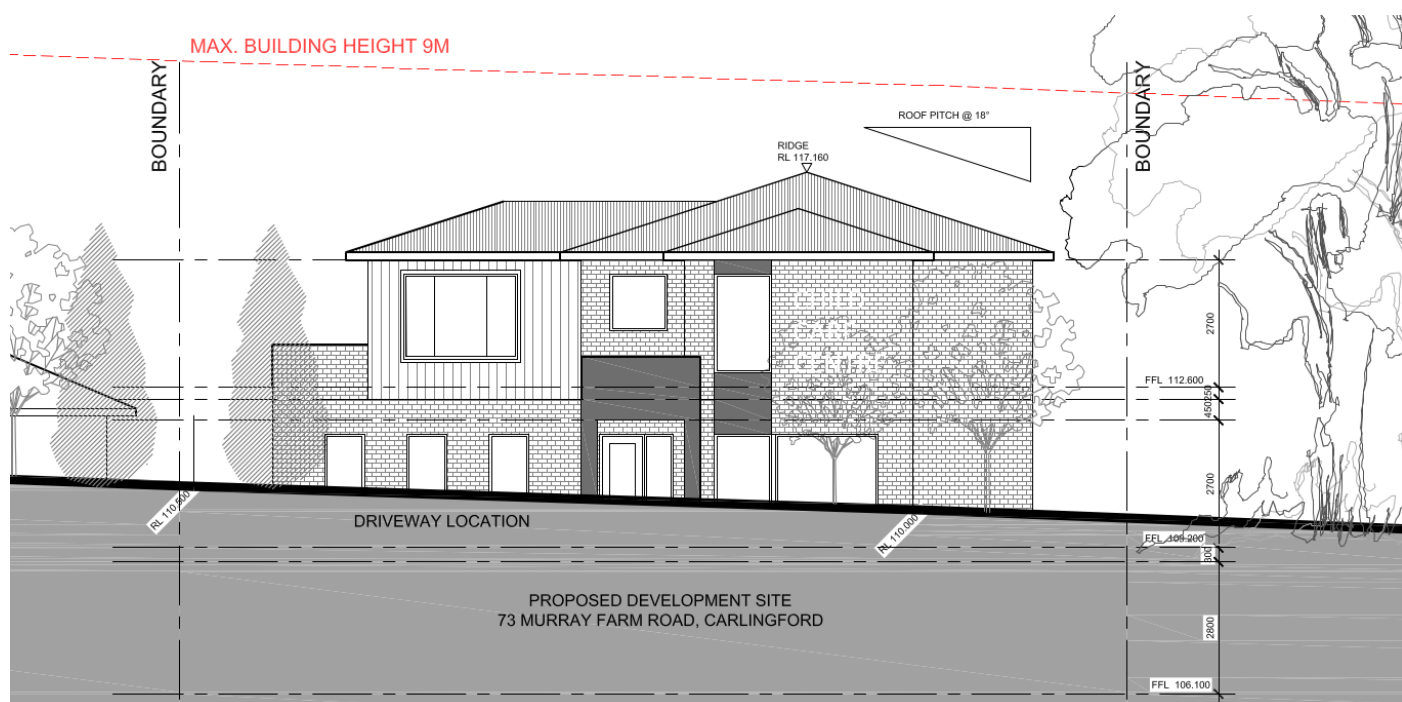


Figure 10: Streetscape (Murray Farm Road) Elevation. Source: Submitted Architectural plans prepared by Janssen Designs.

#### 4. Relevant Application History

Date	Comment
23 February 2023	The application was lodged with Council
07 March 2023 – 28 March 2023	The application was notified to the neighbouring properties and advertised with a sign on the site as per Council's Consolidated Notification Requirements.
11 April 2023	A deemed refusal Appeal was lodged with the Land and Environment Court.

## 5. Referrals

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
<b>Development Engineer</b>	<b>Not Supported</b> <ul style="list-style-type: none"><li>- The location of the OSD system under the play area is not acceptable.</li><li>- The proposal does not meet the requirements of water sensitive urban design.</li><li>- Insufficient information was not provided to assess the levels of the driveway in relation to Murray Farm Road and the footpath.</li></ul>
<b>Landscaping</b>	<b>Not Supported</b> <ul style="list-style-type: none"><li>- Arborist report lacks information regarding trees on the site and surrounding.</li><li>- Arborist report does not list all documentation referenced during the assessment process and demonstrate due consideration to the development in its entirety</li><li>- Insufficient volumes in planter boxes</li><li>- Unsustainable landscape design.</li></ul>
<b>Traffic</b>	<b>Not Supported</b> <ul style="list-style-type: none"><li>- As per The Hills DCP 2012, a minimum 23 car parking spaces is required, however, only 16 carparking spaces are provided.</li><li>- A splay extending 2m from the driveway edge along the front boundary and 2.5m from the boundary along the driveway was not provided.</li><li>- A marked 1.2m wide separate pedestrian pathway from car parking spaces to the lift and stairs to provide a safe pedestrian environment was not provided.</li></ul>
<b>Universal Access</b>	<b>Not Supported</b> <ul style="list-style-type: none"><li>- The proposal does not fully comply with the access report by Wongala Consulting Engineers.</li><li>- Low level thresholds have not been provided.</li><li>- The abutments of varying surfaces do not provide level transitions.</li><li>- The proposed reception desk does not provide accessible features.</li><li>- Equipment and furniture within common areas do not provide suitable features for a person with a mobility impairment.</li></ul>
<b>Environmental Health (General)</b>	Supported subject to conditions of consent.
<b>Environmental Health (Acoustic)</b>	Supported subject to conditions of consent.
<b>Environmental Health (Food)</b>	Supported subject to conditions of consent.
<b>Waste Management</b>	Supported subject to conditions of consent.
<b>Open Space</b>	<b>Not Supported</b> <p>The proposed easement is not supported due to the following:</p> <ul style="list-style-type: none"><li>- Impacts due to the length of the proposed easement (approximately 150m),</li><li>- Impacts due to its proximity to significant trees</li><li>- Impacts on Council assets (access road and carparking)</li><li>- Future impacts on the Murray Farm reserve due to future embellishments.</li></ul>
<b>Internal Property (strategic Assets)</b>	<b>Not Supported</b> <p>A requirement for Council's property team to support a drainage easement through a council reserve is the support of the Parks and Open Space Team.</p>

## PLANNING ASSESSMENT

### 6. 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
- Parramatta Local Environmental Plan 2023 (PLEP 2023)
- Parramatta (former The Hills) Local Environmental Plan 2012 (PLEP 2012)
- The Hills Development Control Plan 2012 (THDCP 2012)

Compliance with these instruments is addressed below.

### **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 objections to the proposal due to insufficient information and impacts on trees on neighbouring sites.

### **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.

Therefore, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the land is suitable for the proposed development being a childcare centre.

Standard and special conditions relating asbestos, site audit statement, site investigation and contamination have been recommended.

### **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.

CLAUSE	COMMENT
<b>Clause 2.48 – Electricity infrastructure</b>	The subject site is not in the vicinity of electricity infrastructure that would trigger the concurrence of the electricity supply authority.
<b>Clause 2.98 – Development adjacent to rail corridors</b>	The subject site is not adjacent to a rail corridor.
<b>Clause 2.119 – Impact of road noise or vibration on non-road development</b>	The subject site does not have frontage to a classified road.
<b>Clause 2.120 – Impact of road noise or vibration on non-road development</b>	<i>Murray Farm Road</i> has an average daily traffic volume of less than 20,000 vehicles per day. As such, clause 102 is not applicable to the development application.

<b>Clause 2.122 – Traffic-generating development</b>	<p>The proposal does not generate more than 200 motor vehicles per hour and is not a site with access to a classified road or to a road that connects to a classified road.</p> <p>The proposed Childcare centre on Murray Farm Road does not trigger Clause 2.122.</p>
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## 7.7 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 3: EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES

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

DEVELOPMENT STANDARD	PROPOSED	COMPLIANCE
<b>3.22 – Concurrence of the Regulatory Authority</b> This clause applies to development for the purpose of a centre-based child care facility if: (a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or (b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.	Total no. of children = 65  <b>Minimum unencumbered space:</b> Indoor – 211.25m <sup>2</sup> Outdoor – 455m <sup>2</sup>  <b>Proposed</b> Indoor – 213.2m <sup>2</sup> Outdoor – 346.2m <sup>2</sup> Outdoor Variation – 108.8m <sup>2</sup> or 24%	The proposal complies with the required amount of indoor Play space.  The proposal does not comply with the required outdoor play space (see below comments).
The proposed outdoor play area does not meet the required minimum 455m <sup>2</sup> of unencumbered outdoor play area with a short fall of 108.8m <sup>2</sup> . At the rear of the site has an area of 97m <sup>2</sup> that has been excluded from the calculation of outdoor play area as this space has been determined as not suitable for children due to its access requiring the use of stairs as it is 1-2m below the upper level and would result in poor supervision of the children and a hazard as a set of stairs is included in their play area.  Should that area have been included, the proposal would still have a shortfall of 11.8m <sup>2</sup> .		
<b>3.23 – Matters for Consideration by Consent Authorities</b> Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	The proposal has been assessed against the relevant provisions of the Child Care Planning Guidelines.	Refer to table below for discussion. .
<b>3.24 – Additional Matters for Consideration by Consent Authorities</b> The consent authority must consider the following matters before determining a development application for development for the purpose of a centre-based child care facility on land in Zone IN1 General Industrial or Zone IN2 Light Industrial— (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses, (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses, (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.	N/A	N/A – The subject site is not located within land zoned IN1 General Industrial or IN2 Light Industrial.
<b>3.25 – Floor Space Ratio</b> Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1. This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.	The site is located in an R2 Low density residential. Maximum FSR = 0.5:1 or 472.5m <sup>2</sup> Proposed FSR = 0.46:1 or 438.6m <sup>2</sup>  The outdoor play area on the ground floor is not included as part of the GFA calculation having considered that a 1.4m high acoustic barrier is proposed. (see below discussion)	Complies



In respect to the external play area on the ground floor being included in the calculation of FSR, the legal advice provided to a similar, determined development stating that it should be excluded for the following reasons:

- *The acoustic barriers on the side of the outdoor play area are not external walls.*
- *An external wall of a building is weather-proof. The acoustic barrier does not come close to meeting the underside of the slab above (where there is a slab). The barrier clearly does not serve a weather protection function. The outdoor play area will not be insulated from the impacts of wet weather or outdoor temperatures.*
- *An external wall of a building separates the interior of a building from the exterior. A significant part of the contiguous outdoor play area is open to the sky. The acoustic barriers do not separate the interior of the building from the exterior.*

The legal advice also discussed prior caselaw, including **GGD Danks Street Pty Ltd and CR Danks Street Pty Ltd v Council of the City of Sydney [2015] NSWLEC 1521** which considered (at [31]) that 'an external wall must provide the weatherproofing that maintains the internal wall or face as a dry wall'. It also considered (at [35]) that 'the external play area... is outside the external walls of the building and is bounded by a 1800mm high brick fence with horizontal timber slat infill panels.'

#### Planner's Comment

In this instance, a merit assessment was undertaken. The proposed development will have a ground floor outdoor play area that is greatly, but not entirely, covered by the Level 1 outdoor play area. Although there will be an acoustic fence around the perimeter of the play area, the fencing does not connect with the ceiling. In conjunction with the proposed opening to the sky, the ground floor outdoor play area is not considered to be weatherproof and therefore excluded from the calculation of FSR.

This same principle was applied to another Child Care Centre assessments with a similar multi-level outdoor play area design under DA/240/2021 at 2 Palmer Street, Parramatta. The assessment concluded that as the play areas had '*permanent open space and exposure to the elements*' they could be excluded from the calculation of FSR. This principle was reported to and endorsed by the SCCPP.

<b>3.26 – Non-Discretionary Development Standards</b> (a) Location (b) Indoor and Outdoor Space (c) Site Area and Site Dimensions (d) Colour of Building Materials or Shade Structures (e)	The non-discretionary development standards subject of this clause (a) – (d) have been considered within this assessment.	The proposal does not meet the requirements of outdoor unencumbered space.
<b>3.27 – Development Control Plans</b> A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) <u>does not apply</u> to development for the purpose of a centre-based child care facility:  (a) operational or management plans or arrangements (including hours of operation), (b) demonstrated need or demand for child care services, (c) proximity of facility to other early education and care facilities, (d) any matter relating to development for the purpose of a centre-based child care facility contained in— (i) the design principles set out in Part 2 of the Child Care Planning Guideline, or (ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).	The proposal has been assessed against the provisions of The Hills DCP 2012. It is noted that the provisions contained within THDCP 2012 pertaining to this clause have not been applied when assessing the proposed development.	N/A

#### Compliance with Child Care Planning Guideline 2021

The Guideline identifies issues that must be taken into consideration when assessing the proposal for a Childcare Centre. It also refers to the application of the *National Regulations for Childcare Centres*. The table below responds to each consideration raised in the Guideline. The assessment against the National Regulations is addressed in a separate table.

Provisions	Comment
<b>Part 2 – Design Quality Principles</b>	
Principle 1 – Context	The site is not a battle-axe allotment or cul-de sac and not located off an arterial road. The proposal is not within proximity to any intensive, offensive and hazardous land uses. The predominant land uses within the surrounding locality comprise residential uses with Murray Farm Reserve to the rear and east.

	<p>The proposal does not respond to the natural environment proposing fill along the boundaries and a basement that extends above the natural ground level with a raised outdoor play area proposed.</p> <p>The proposal <b>does not</b> meet the requirements of principle 1 – Context.</p>
Principle 2 – Built Form	<p>The proposed built form exceeds the scale of nearby dwelling by proposing large outdoor play areas on balcony type structures and is additionally inconsistent with the proposed future built form of the area.</p> <p>While compliant with FSR and height controls, and the current THDCP 2012 setback requirements, the draft Parramatta DCP (currently on exhibition at the time of this report) requires a rear setback to dwelling equal to 30% of the site length, and in this case would be 14.1m. The current rear setback for the proposal is 5m resulting in a built form that is inconsistent with surrounding development, especially as the North, rear elevation and the east elevation (mislabelled west elevation in the architectural plans) are completely visible from the Murry farm reserve.</p> <p>The proposal <b>does not</b> meet the requirements of principle 2 – Built form.</p>
Principle 3 – Adaptive Learning Spaces	<p>The subject site has been assessed on its adaptive learning spaces. It is noted that the proposed indoor space would facilitate adequate learning spaces for children and staff that are fit-for-purpose, enjoyable and easy to use. It is acknowledged that the proposed use is likely to offer a variety of settings, technology and opportunities for interaction.</p> <p>The proposal does meet the requirements of principle 3 – Adaptive Learning Spaces</p>
Principles 4 – Sustainability	<p>Due to the south facing orientation of the site, the indoor and outdoor play areas will receive a sufficient amount on sunlight. The ground floor indoor playrooms have multiple windows allowing for natural ventilation.</p> <p>It is noted that the sustainable measures imposed are considered appropriate. Council's Environmental Health Officer has no objection subject to conditions of consent.</p> <p>The proposal does meet the requirements of principle 4 – Sustainability</p>
Principle 5 – Landscape	<p>The proposal lacks sufficient landscaping that would result in an attractive development and does not make outdoor spaces assets for learning. Only 5m of the rear of the proposal is capable of landscaping and that space is considered unsuitable for children. This results in no outdoor play spaces having natural landscaping.</p> <p>Additionally, the proposal does not contribute to the landscape character of the area but has been identified to be detrimental to several mature trees in the adjacent Murray Farm Reserve. As these trees are positive natural features that contribute to the local context, the proposal does not make efforts to retain them.</p> <p>The proposal <b>does not</b> meet the requirements of principle 5 – Landscape.</p>
Principle 6 – Amenity	<p>The internal amenities of the proposal are compromised as the proposed multiple levels of play areas on the ground floor do not contribute to effective surveillance of the development. With a compromise to the surveillance, the proposal does not achieve good amenity or contribute to positive learning environments and the well-being of children and staff.</p> <p>The proposal <b>does not</b> meet the requirements of principle 6 – Amenity.</p>
Principle 7 – Safety	<p>The childcare centre has clearly defined public and private spaces with controlled access for parents and children.</p> <p>The proposed multiple levels of play areas on the ground floor do not contribute to effective surveillance of the development. With a compromise to the surveillance, a health and safety risk to children is created.</p> <p>With the subject site having a rear and side boundary to a public park, security issues along the boundaries can be opportune. Additionally, lower Finish Floor Level at the rear can be a potential hiding space for intruders from occupants in the childcare centre. A Crime Prevention Through Environmental Design (CPTED) assessment report should have been prepared by a qualified professional explaining how the safety of the children an occupants in established and maintained.</p> <p>The proposal <b>does not</b> meet the requirements of principle 7 – Safety</p>



<b>Part 3 – Matters for Consideration</b>	
<b>3.1 – Site Selection and Location</b>	
<p><b>C1</b> For proposed developments in or <b>adjacent to a residential zone</b>, consider:</p> <ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> <li>the setbacks and siting of buildings within the residential context</li> <li>visual amenity impacts (e.g. additional building bulk and overshadowing, local character)</li> <li>traffic and parking impacts of the proposal on residential amenity and road safety</li> </ul>	<p><b>Visual and Acoustic Privacy</b> – The proposed development maintains the acoustic and visual privacy of neighboring properties.</p> <p><b>Setbacks</b> – NOT acceptable The subject site is zoned R2 Low Density Residential. The front and side setbacks are acceptable. However, a noncompliant rear setback on the first floor is proposed.</p> <p><b>Visual Amenity</b> - acceptable The proposal complies with the prescribed building height and FSR development standards for the locality.</p> <p><b>Traffic and Parking</b> – not acceptable. The number of parking spaces provided does not comply with the numerical requirements.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>the location and surrounding uses are compatible with the proposed development or use</li> <li>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> <li>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> <li>the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>size of street frontage, lot configuration, dimensions and overall size</li> <li>number of shared boundaries with residential properties</li> </ul> </li> <li>the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> <li>where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric, setting or layout of the item.</li> <li>there are suitable drop off and pick up areas, and off and on street parking</li> <li>the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use</li> <li>the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities</li> <li>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.</li> </ul>	<p><b>Compatible uses</b> – NOT acceptable Contextually, existing developments in the surrounding area are detached residential dwellings. The proposed development is considered to be compatible as viewed from Murray Farm Road. However, when viewed from the east, from the Murray Farm Reserve, the proposal appears excessive in comparison to the existing developments. Additionally, when compared to the future character as per the Draft Parramatta DCP, the proposal would require a 14.1m rear setback when a 5m rear setback is currently proposed.</p> <p><b>Contamination</b> – Acceptable A review of Council's records does not indicate any contamination on the site that warrants additional assessment. The existing dwelling may contain asbestos and should be disposed of appropriately.</p> <p><b>Site Characteristics</b> – Acceptable The proposed childcare centre is considered to have a built form that does not mimics that of residential dwelling. This is due to the scale of the proposal exceeding its rear setback requirements.</p> <p><b>Drop off areas</b> – NOT acceptable The site provides 16 parking spaces within the car park when 23 spaces are required. Currently 7 drop off spaces are only provided. Insufficient car parking is provided on site.</p> <p><b>Restricted Premises</b> The site is not located in proximity to any restricted premises or places of incompatible social behaviour.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C3</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> <li>near or within employment areas, town centres, business centres, shops</li> <li>with access to public transport including rail, buses, ferries</li> <li>in areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p>The childcare centre is located within a predominantly residential area.</p> <p>The closest public transport to the subject site, a bus stop, is approximately 450m away on Oakes Road.</p> <p>With the exception of the Murray farm Reserve, the subject site is not located near compatible social uses or employment areas.</p> <p><b>DOES NOT COMPLY</b></p>
<b>C4</b>	<b>Flooding</b>

<p>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"> <li>proximity to: <ul style="list-style-type: none"> <li>heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>Liquefied Petroleum Gas (LPG) tanks or service stations</li> <li>water cooling and water warming systems</li> <li>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</li> <li>extractive industries, intensive agriculture, agricultural spraying activities</li> <li>any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.</li> </ul> </li> </ul>	<p>The site is not located in proximity to areas that would cause risk to children, staff or visitors.</p> <p><b>Complies</b></p>
<b>3.2 – Local Character, Streetscape and the Public Domain Interface</b>	
<p><b>C5</b></p> <p>The proposed development should:</p> <ul style="list-style-type: none"> <li>contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape</li> <li>build on the valued characteristics of the neighbourhood and draw from the physical surrounds, history and culture of place</li> <li>reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours</li> <li>include design and architectural treatments that respond to and integrate with the existing streetscape and local character</li> <li>use landscaping to positively contribute to the streetscape and neighbouring and neighbourhood amenity</li> <li>integrate car parking into the building and site landscaping design in residential areas</li> <li>in R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved.</li> </ul>	<p><b>Design</b></p> <p>Contextually, existing developments in the surrounding area are detached residential dwellings. The proposed development is considered to be compatible as viewed from Murray Farm Road.</p> <p>However, when viewed from the east, from the Murray Farm Reserve, the proposal appears excessive in comparison to the existing developments. Additionally, when compared to the future character as per the Draft Parramatta DCP, the proposal would require a 14.1m rear setback when a 5m rear setback is currently proposed.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C6</b></p> <p>Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>fencing to ensure safety for children entering and leaving the facility</li> <li>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</li> <li>integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>Play Space</b></p> <p>The childcare centre has clear delineations between the public and private domain with a single entry to the centre.</p> <p><b>Complies</b></p>
<p><b>C7</b></p> <p>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p><b>Multiple Entries</b></p> <p>A pedestrian entry lobby to the childcare facility is proposed. The lobby is accessed from an entry path off Murray Farm Road, which is not clearly delineated from the driveway. The proposed driveway and pedestrian access are adjoined and not separated by landscaping but are differentiated in materiality.</p> <p>The proximity of the pedestrian access to the driveway lacks legibility and potentially unsafe.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C8</b></p> <p>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"> <li>clearly defined street access, pedestrian paths and building entries</li> <li>low fences and planting which delineate communal/ private open space from adjoining public open space</li> <li>minimal use of blank walls and high fences.</li> </ul>	<p>The subject site does adjoin a public park, The Murray Farm Reserve.</p> <p>The proposal does incorporate the required design solutions by including clear access, low fences and planting to properly define the subject site from the reserve and an articulated façade.</p> <p><b>Complies</b></p>
<p><b>C9</b></p> <p>Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p><b>Front fencing</b></p> <p>A front fence is not proposed.</p> <p><b>Complies</b></p>
<p><b>C10</b></p>	<p><b>Fencing on Classified Roads</b></p>



<p>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>The site does not front a classified road.</p> <p><b>Complies</b></p>
<p><b>3.3 – Building Orientation, Envelope and Design</b></p>	
<p><b>C11</b> Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>placing play equipment away from common boundaries with residential properties</li> <li>locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> <li>optimise solar access to internal and external play areas</li> <li>avoid overshadowing of adjoining residential properties</li> <li>minimise cut and fill</li> <li>ensure buildings along the street frontage define the street by facing it</li> <li>ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>Solar Access – Acceptable</b> The indoor and outdoor spaces will receive solar access throughout the day due to the orientation of the site and comply.</p> <p><b>Visual Privacy – Acceptable</b> The proposal will have glazed windows facing the eastern side boundary to allow for morning solar access into the indoor play areas whilst protecting the privacy of adjoining neighbours.</p> <p><b>Overshadowing – Acceptable</b> Due to the orientation of the site, the majority of the overshadowing occurs onto Murray Farm Road. The adjoining neighbours maintain their solar access.</p> <p><b>Cut and Fill – NOT acceptable</b> Due to the proposed basement, the excavation on site reaches a maximum depth of 2.4m below natural ground level. In this instance, the level of cut is acceptable. However, the rear of the site is proposed with 1.3m of fill along the rear boundary. The proposed fill along the rear boundary is a poor response to the natural features of the site and is proposed to reduce the difference between the levels of the ground floor outdoor play areas.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>building height should be consistent with other buildings in the locality</li> <li>building height should respond to the scale and character of the street</li> <li>setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>setbacks should provide adequate access for building maintenance</li> <li>setbacks to the street should be consistent with the existing character</li> <li>Where a Local Environmental Plan or Development Control Plan do not specify a floor space ratio for the R2 Low Density Residential zone, a floor space ratio of 0.5:1 is to apply to a child care facility in the R2 zone.</li> </ul>	<p>The proposed scale and building mass are not compliant with the setback controls for the locality as per THDCP 2012. When the future context of the area is taken into consideration under the Draft PDCP, the scale and building mass will no align with future context and detract from the local character.</p> <p>The site is located in an R2 Low density residential. Maximum FSR = 0.5:1 or 472.5m<sup>2</sup> Proposed FSR = 0.46:1 or 438.6m<sup>2</sup></p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C13</b> 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>The subject site is zoned R2 Low Density Residential. The 10m front setback to the street is satisfactory.</p> <p><b>Complies</b></p>
<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house</p>	<p>The subject site is zoned R2 Low Density Residential. The 2m side setbacks exceed the requirements of a dwelling house.</p>
<p><b>C15</b> 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"> <li>respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>contributes to the identity of the place</li> <li>retains and reinforces existing built form and vegetation where significant</li> <li>considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>responds to its natural environment including local landscape setting and climate</li> </ul>	<p>Contextually, existing developments in the surrounding area are detached residential dwellings. The proposed development is considered to be compatible as viewed from Murray Farm Road. However, when viewed from the east, from the Murray Farm Reserve, the proposal appears excessive in comparison to the existing developments. Additionally, when compared to the future character as per the Draft Parramatta DCP, the proposal would require a 14.1m rear setback when a 5m rear setback is currently proposed.</p>

<ul style="list-style-type: none"> <li>• <i>contributes to the identity of place</i></li> </ul>	<p>Additionally, the rear of the site is proposed with 1.3m of fill along the rear boundary. The proposed fill along the rear boundary is a poor response to the natural features of the site and is proposed to reduce the difference between the levels of the ground floor outdoor play areas.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C16</b>  <i>Entry to the facility should be limited to one secure point which is:</i></p> <ul style="list-style-type: none"> <li>• <i>located to allow ease of access, particularly for pedestrians</i></li> <li>• <i>directly accessible from the street where possible</i></li> <li>• <i>directly visible from the street frontage</i></li> <li>• <i>easily monitored through natural or camera surveillance</i></li> <li>• <i>not accessed through an outdoor play area.</i></li> <li>• <i>in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</i></li> </ul>	<p>Entry to the subject site is accommodated by a pedestrian entry from Murray farm Street to a single lobby area and is considered acceptable.</p>
<p><b>C17</b>  <i>Accessible design can be achieved by:</i></p> <ul style="list-style-type: none"> <li>• <i>providing accessibility to and within the building in accordance with all relevant legislation</i></li> <li>• <i>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</i></li> <li>• <i>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</i></li> <li>• <i>minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</i></li> </ul>	<p>The development provides an accessible visitor car space within the site and accessibility ramps from the street.</p> <p>However, the following issues have been identified by Council's Universal access officer:</p> <ul style="list-style-type: none"> <li>- The proposal does not fully comply with the access report by Wongala Consulting Engineers.</li> <li>- Low level thresholds have not been provided.</li> <li>- The abutments of varying surfaces do not provide level transitions.</li> <li>- The proposed reception desk does not provide accessible features.</li> <li>- Equipment and furniture within common areas do not provide suitable features for a person with a mobility impairment.</li> </ul> <p><b>DOES NOT COMPLY</b></p>
<p><b>3.4 - Landscaping</b></p>	
<p><b>C18</b>  <i>Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space.</i></p> <p><i>Use the existing landscape where feasible to provide a high quality landscaped area by:</i></p> <ul style="list-style-type: none"> <li>• <i>reflecting and reinforcing the local context</i></li> <li>• <i>incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</i></li> </ul>	<p>The proposal does not contribute to the landscape character of the area but has been identified to be detrimental to several mature trees in the adjacent Murray Farm Reserve. As these trees are positive natural features that contribute to the local context, the proposal does not make efforts to retain them.</p> <p>Landscaping is proposed in the front setback facing Murray Farm Road, however, only 5m of the rear of the proposal is capable of landscaping and that space is considered unsuitable for children.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C19</b>  <i>Incorporate car parking into the landscape design of the site by:</i></p> <ul style="list-style-type: none"> <li>• <i>planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</i></li> <li>• <i>taking into account streetscape, local character and context when siting car parking areas within the front setback</i></li> <li>• <i>using low level landscaping to soften and screen parking areas.</i></li> </ul>	<p>The proposed carparking is in the basement.</p>
<p><b>3.5 – Visual and Acoustic Privacy</b></p>	
<p><b>C20</b>  <i>Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</i></p>	<p>N/A – the proposal is not for a mixed use development</p>
<p><b>C21</b>  <i>Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</i></p> <ul style="list-style-type: none"> <li>• <i>appropriate site and building layout</i></li> <li>• <i>suitably locating pathways, windows and doors</i></li> <li>• <i>permanent screening and landscape design.</i></li> </ul>	<p><b>Overlooking from public space</b>  The play areas are located on the ground and first floors and properly screened by acoustic fencing.</p> <p><b>Complies</b></p>
<p><b>C22</b>  <i>Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</i></p> <ul style="list-style-type: none"> <li>• <i>appropriate site and building layout</i></li> <li>• <i>suitable location of pathways, windows and doors</i></li> <li>• <i>landscape design and screening.</i></li> </ul>	<p><b>Overlooking onto adjoining private space</b>  The proposal does not overlook into adjoining properties. Window Placement and 1.4m high balustrade is proposed to further minimise potential for overlooking.</p>



	<b>Complies</b>
<b>C23</b> 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: <ul style="list-style-type: none"> <li>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).</li> <li>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.</li> </ul>	<b>Acoustic privacy</b> The proposal utilises a 1.8m high solid barrier along boundaries, and no issues were raised by council officers regarding the fence.  A satisfactory acoustic report was submitted with the proposal.  <b>Complies</b>
<b>C24</b> A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters: <ul style="list-style-type: none"> <li>identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<b>Acoustic Consultant</b> The application was accompanied by an Acoustic Report. The report was referred to Council's Environmental Health Officer who raised no issues.
<b>3.6 – Noise and Air Pollution</b>	
<b>C25</b> Adopt design solutions to minimise the impacts of noise, such as: <ul style="list-style-type: none"> <li>creating physical separation between buildings and the noise source</li> <li>orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>using landscaping to reduce the perception of noise</li> <li>limiting the number and size of openings facing noise sources</li> <li>using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<b>Noise attenuation measures from centre</b> The proposal utilises a 1.8m high solid barrier along boundaries.  <b>Complies</b>
<b>C26</b> 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: <ul style="list-style-type: none"> <li>on industrial zoned land</li> <li>where the ANEF contour is between 20 and 25, consistent with AS 2021 - 2000</li> <li>along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>on a major or busy road</li> <li>other land that is impacted by substantial external noise.</li> </ul>	<b>Noise attenuation from external sources</b> The centre is not located nearby a noise source that requires attenuation of external noise sources.
<b>C27</b> 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.	<b>Air Pollution</b> The subject site is not located in close proximity to external sources of air pollution.
<b>C28</b> 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: <ul style="list-style-type: none"> <li>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</li> <li>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</li> <li>incorporating ventilation design into the design of the facility</li> </ul>	<b>Air Quality Report</b> Not Required
<b>3.7 – Hours of Operation</b>	

<p><b>C29</b> 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>The proposed CCC is located within a residential environment and has core hours of 7AM to 6PM Monday to Friday.</p> <p><b>Complies</b></p>
<p><b>C30</b> 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>N/A – the locality is not of a commercial nature.</p>
<p><b>3.8 – Traffic, Parking and Pedestrian Access</b></p>	
<p><b>C31</b> 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.</p>	<p>The proposal does not comply with the quantum of parking spaces required for a 65 place CCC. The application was referred to Council's Traffic Engineer who did not support the proposal.</p> <p>The site provides 16 parking spaces within the car park when 23 spaces are required. Currently 7 drop off spaces are only provided. Insufficient car parking is provided on site.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C32</b> 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</p>	<p>N/A – the locality is not of a commercial or industrial nature.</p>
<p><b>C33</b> 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:</p> <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected</li> <li>there will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>The application was accompanied with a traffic and parking study.</p> <p>The application was referred to Council's Traffic Engineer who did not support the proposal.</p> <p>The site provides 16 parking spaces within the car park when 23 spaces are required. Currently 7 drop off spaces are only provided. Insufficient car parking is provided on site.</p> <p>This will result in on street parking and impact on the amenity of the area.</p> <p><b>DOES NOT COMPLY</b></p>
<p><b>C34</b> Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>a classified road</li> <li>roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>the prevailing traffic conditions</li> <li>pedestrian and vehicle safety including bicycle movements</li> <li>the likely impact of the development on traffic.</li> </ul>	<p>N/A – no vehicular access to a classified road is proposed.</p>
<p><b>C35</b> Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>N/A – the subject site is not located within a cul-de-sac.</p>
<p><b>C36</b> The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>separate pedestrian access from the car park to the facility</li> <li>defined pedestrian crossings included within large car parking areas</li> <li>separate pedestrian and vehicle entries from the street for parents, children and visitors</li> <li>pedestrian paths that enable two prams to pass each other</li> <li>delivery, loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> <li>minimise the number of locations where pedestrians and vehicles cross each other</li> <li>in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance</li> </ul>	<p>The proposed car park will have a separate pedestrian access and allows for cars entering and exiting the site in a forward direction.</p> <p>However, the pedestrian access and driveway are directly adjoining one another. For the safety of the pedestrians, a separation between the accesses is required.</p> <p><b>DOES NOT COMPLY</b></p>

physically separated from any truck circulation or parking areas		
<ul style="list-style-type: none"><li>vehicles can enter and leave the site in a forward direction</li><li>clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.</li></ul>		
<b>C37</b> Mixed use developments should include: <ul style="list-style-type: none"><li>driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks</li><li>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.</li><li>parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li></ul>	N/A – the proposal is not for a mixed use development.	
<b>C38</b> Car parking design should: <ul style="list-style-type: none"><li>include a child safe fence to separate car parking areas from the building entrance and play areas</li><li>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li><li>include wheelchair and pram accessible parking.</li></ul>	<p>The proposed car park will have a separate pedestrian access and allows for cars entering and exiting the site in a forward direction.</p> <p>However, the pedestrian access and driveway are directly adjoining one another. For the safety of the pedestrians, a separation between the accesses is required.</p> <p><b>DOES NOT COMPLY</b></p>	
<b>Part 4 – Applying the National Regulations to Development Proposals (Checklist)</b>		
<b>Controls</b>	<b>Proposed</b>	<b>Compliance</b>
<b>4.1 Indoor space requirements</b>		
<b>Regulation 107</b> Every child being educated and cared for within a facility must have a minimum of 3.25m <sup>2</sup> of unencumbered indoor space.	Required – 211.25m <sup>2</sup> Provided – 213.2m <sup>2</sup>	Yes
<b>Verandas' as indoor space</b> For a veranda to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather.	The application does not rely on verandahs as indoor space.	N/A
<b>Storage</b> Storage areas including joinery units are not to be included in the calculation of indoor space.  It is recommended that a child care facility provide: <ul style="list-style-type: none"><li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li><li>a minimum of 0.2m<sup>3</sup> per child of internal storage space.</li></ul>	Required: External storage space – 19.5m <sup>3</sup> Internal storage space – 13m <sup>3</sup>  Proposed: External storage space – 0m <sup>3</sup> Internal storage space – 21.6m <sup>3</sup>  No External storage is proposed.	<b>NO</b>
<b>4.2 Laundry and hygiene facilities</b>		
<b>Regulation 106</b> There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen	A laundry room is provided on the first floor. This room is contained so as not to pose a risk to children.  However, the plans only identify a room as laundry with no indication of laundry machines or dryers.	<b>Insufficient information</b>
<b>4.3 Toilet and hygiene facilities</b>		
<b>Regulation 109</b> 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.	Windows into bathrooms for supervision have been implemented.  Insufficient information has been provided to indicate junior toilet pans, low level sinks and hand drying facilities. Rooms have been labelled as <i>Kids WC</i> with no further detail to determine if the facilities enable safe use and convenient access by the children.	<b>Insufficient information</b>
<b>4.4 Ventilation and natural light</b>		
<b>Regulation 110</b>		Yes



Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children.	Each room to be utilised by the children has access to an external opening to provide the required ventilation and natural light	
<b>4.5 Administrative space</b>		
<b>Regulation 111</b> 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.	The CCC is provided with a reception area, and entry but does not seem to have a waiting area, private meeting room, and document area.  It is unclear how incoming parents/guardians will be managed.	<b>Insufficient information</b>
<b>4.6 Nappy change facilities</b>		
<b>Regulation 112</b> Childcare 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.	As the CCC will accommodate children that wear nappies, nappy change facilities are provided in children's bathrooms on the ground floor.  The first-floor bathroom that adjoins the 3-6 years old play area does not provide a nappy change area.	Yes
<b>4.7 Premises designed to facilitate supervision</b>		
<b>Regulation 115</b> 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.	Windows into bathrooms for supervision have been implemented.  Insufficient information has been provided to indicate junior toilet pans, low level sinks and hand drying facilities. Rooms have been labelled as <i>Kids WC</i> with no further detail to determine if the facilities enable safe use and convenient access by the children.  The Plan of Management and Statement of Environmental effects does not properly discuss how the proposed layout affords and assists in the supervision of children as it lacks critical information regarding the rear outdoor play area on the ground floor at a lower finish floor level from the rest of the play area.	<b>Insufficient information</b>
<b>4.8 Emergency and evacuation procedures</b>		
<b>Regulations 97 and 168</b> 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: • instructions for what must be done in the event of an emergency • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service.	An emergency evacuation plan has been provided.	Yes
<b>4.9 Outdoor space requirements</b>		
<b>Regulation 108</b> An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7m <sup>2</sup> of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.	<b>Required</b> Outdoor – 455m <sup>2</sup>  <b>Proposed</b> Outdoor – 346.2m <sup>2</sup> Outdoor Variation – 108.8m <sup>2</sup> or 24%	<b>NO</b>
<b>4.10 Natural environment</b>		
<b>Regulation 113</b>	The proposal lacks sufficient natural features that would make outdoor spaces assets for learning. Only 5m of the rear of the proposal is capable of	<b>NO</b>

The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.	landscaping and that space is considered unsuitable for children. This results in no outdoor play spaces having natural landscaping.	
<b>4.11 Shade</b>		
<b>Regulation 114</b> 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.	Required – 136.5sqm or 30% Provided shade area – 209.2sqm or 45.9%  The shaded areas are evenly distributed throughout the CCC.	Yes
<b>4.12 Fencing</b>		
<b>Regulation 104</b> 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 National Construction Code.	The proposal utilises a 1.8m high solid barrier along boundaries.	Yes
<b>4.13 Soil Assessment</b>		
<b>Regulation 25 Education and Care Services National Regulations</b> Subclause (d) of regulation 2 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:  <ul style="list-style-type: none"> <li>• A soil assessment for the site of the proposed education and care services premises;</li> <li>• 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</li> <li>• 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.</li> </ul>	A review of Council's records indicates that the site does not contain potential for contamination and was deemed to be satisfactory.	Yes

## 7. 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 23 February 2023 and therefore shall be assessed under the Parramatta (former The Hills) LEP 2012.

## 8. PARRAMATTA (FORMER THE HILLS) LOCAL ENVIRONMENTAL PLAN 2012

The relevant matters considered under the PLEP 2023 for the proposed development are outlined below:

### 1.2 Aims of Plan

(1) This Plan aims to make local environmental planning provisions for land in the City of Parramatta in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.

(2) The particular aims of this Plan are as follows—

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to guide the orderly and sustainable development of the City of Parramatta local government area, balancing its economic, environmental and social needs,

(b) to provide strategic direction and urban and rural land use management for the benefit of the community,

(c) to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,

(d) to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of the City of Parramatta local government area,

(e) to preserve and protect the natural environment of the City of Parramatta local government area and to identify environmentally significant land for the benefit of future generations,

(f) to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.

It is considered that the development does not satisfactorily meet the aims of the plan due to the impacts on the natural environment that would not preserve and protect the natural environment of the City of Parramatta. The proposal is environmentally unsustainable and would have a negative impact on the Murray Farm Reserve.

### Clause 2.3 Zone objectives and Land Use Table

The site is zoned R2 Low Density Residential. The aims and objectives for the R2 zone in Clause 2.3 – Zone Objectives are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To maintain the existing low density residential character of the area.

The proposal is consistent with these objectives.

Standards and Provisions	Compliance
<b>Part 4 Principal development standards</b>	
<b>Cl. 4.1 Minimum Lot Size (MLS)</b>	N/A for this application
<b>Cl. 4.2 Rural Subdivision</b>	Does Not Apply
<b>Cl. 4.3 Height of buildings</b> Allowable: 9m	<b>Proposed:</b> 8.66m <b>Complies</b>
<b>Cl. 4.4 Floor space ratio</b>	The subject site is not identified on the LEP floor space ratio map.  However, Clause 3.25 of the SEPP (Transport and Infrastructure) 2021 imposed a FSR of 0.5:1 as the site is located in an R2 Low Density Residential zone.  Maximum FSR = 0.5:1 or 472.5m <sup>2</sup> Proposed FSR = 0.46:1 or 438.6m <sup>2</sup>  The outdoor play area on the ground floor is not included as part of the GFA calculation having considered that a 1.4m high acoustic barrier is proposed. (see discussion in Clause 3.25 of the SEPP (Transport and Infrastructure) 2021)
<b>Cl. 4.6 Exceptions to Development Standards</b>	A variation to a development standard is not proposed.
<b>Part 5 Miscellaneous provisions</b>	
<b>Cl. 5.1 Relevant acquisition authority</b>	Not identified for acquisition.
<b>Cl. 5.1A Development on land intended to be acquired for public purposes</b>	Not identified for acquisition.
<b>Cl. 5.2 Classification and reclassification of public land</b>	Does Not Apply



<b>Cl. 5.3 Development near zone boundaries</b>	The subject site is on a zone boundary, however, as the abutting zone is RE1 Public Recreation, Clause 5.3 does not apply.
<b>Cl. 5.4 Controls relating to miscellaneous permissible uses</b>	Does Not Apply
<b>Cl. 5.5 Controls relating to secondary dwellings on land in a rural zone</b>	Does Not Apply
<b>Cl. 5.6 Architectural roof features</b>	An architectural roof feature is not proposed.
<b>Cl. 5.7 Development below mean high water mark</b>	The proposal is not for the development of land that is covered by tidal waters.
<b>Cl. 5.8 Conversion of fire alarms</b>	Does Not Apply
<b>Cl. 5.9 Dwelling house or secondary dwelling affected by natural disaster</b>	Does Not Apply
<b>Cl. 5.10 Heritage conservation</b>	The subject site is not identified as being a heritage item, nor is it located within land identified as a heritage conservation area.
<b>Cl. 5.11 Bush fire hazard reduction</b>	The site is not identified as Bush fire Prone.
<b>Cl. 5.12 Infrastructure development and use of existing buildings of the Crown</b>	Does Not Apply
<b>Cl. 5.13 Eco-tourist facilities</b>	Does Not Apply
<b>Cl. 5.14 Siding Spring Observatory—maintaining dark sky</b>	Does Not Apply
<b>Cl. 5.15 Defence communications facility</b>	Does Not Apply
<b>Cl. 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones</b>	Does Not Apply
<b>Cl. 5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations</b>	Does Not Apply
<b>Cl. 5.18 Intensive livestock agriculture</b>	Does Not Apply
<b>Cl. 5.19 Pond-based, tank-based and oyster aquaculture</b>	Does Not Apply
<b>Cl. 5.20 Standards that cannot be used to refuse consent—playing and performing music</b>	Does Not Apply
<b>Cl. 5.21 Flood Planning</b>	The site is not identified as flood Prone.
<b>Cl. 5.22 Special flood considerations</b>	Does Not Apply
<b>Cl. 5.23 Public bushland</b>	Does Not Apply
<b>Cl. 5.24 Farm stay accommodation</b>	Does Not Apply
<b>Cl. 5.25 Farm gate premises</b>	Does Not Apply
<b>Part 7 Additional local provisions</b>	
<b>Cl. 7. 2 Earthworks</b>	<p>Due to the proposed basement, the excavation on site reaches a maximum depth of 2.4m below natural ground level. In this instance, the level of cut is acceptable. However, the rear of the site is proposed with 1.3m of fill along the rear boundary and is a poor response to the natural features of the site. The fill is proposed to reduce the difference between the levels of the ground floor outdoor play areas but results in visual impacts to the Murray Farm reserve and does not respond to the natural features of the site.</p> <p>The proposed earthworks do not satisfy the objectives and requirements of the clause due to impacts on the amenity of adjoining neighbours, including the reserve, and are not considered to be earthworks of a minor nature.</p>
<b>Cl. 7. 8 Underground power lines at Carlingford</b>	The subject site is not on land identified as “Area A” on the Key Sites Map.
<b>Cl. 7. 9 Restricted premises</b>	Does Not Apply

## 9. The Parramatta (former The Hills) Development Control Plan 2012

PART B SECTION 6 BUSINESS		
CONTROL	PROPOSED	COMPLIANCE

<b>2.34 Centre Based Child Care Facilities – Additional Controls</b>		
(a) Other relevant Sections of the DCP (i.e. Part B Section 2 – Residential) should be consulted with regards to setbacks, depending on the nature and location of the development.	The proposal does not satisfactorily address all matter pertaining to Part B – Section 2 – Residential.  These matters are assessed further in the report.	No
(d) Consideration is to be given to the Building Code of Australia with regards to the fire resistance of walls of the child care centre (and the openings on the walls) facing side and rear boundaries.	Conditions would have been imposed to ensure that the development is compliant with NCC requirements.	Noted.
(e) Setbacks for childcare centre car parking areas:  <b>Residential zones</b> Minimum 5 metre setback from the front property boundary.	Parking is located within the basement.	N/A
(f) The front setback areas are to include landscaping with a minimum width of two metres to screen vehicles from view from the street and surrounding properties.	Parking is proposed in the basement and therefore would not require screening from view of the street and surrounding properties.	N/A
(g) Side boundary setbacks to car parking areas are to be in accordance with Part C Section 1- Parking and the relevant Sections of the Development Control Plan as outlined in (a) above.	Parking is proposed in the basement.	N/A
(h) The location of external child play areas in the front setback area is not permitted.	The proposal does not seek a play space forward of the building.	Yes
(j) Landscaping along the primary and secondary frontages is to include a combination of ground covers, large trees, shrubs, and grass planting and is to provide high-quality landscaping for the development. Landscaping shall be established prior to the occupation of the building.	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(k) Trees and shrubs shall be provided alongside and rear boundaries to screen outdoor play areas	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(l) Food preparation areas in a child care centre must comply with: <ul style="list-style-type: none"> <li>Food Act 2003;</li> <li>Children's Services Regulation 2004;</li> <li>Food Safety Standards; and</li> <li>Australian Standard 4674-2004 – Design, Construction and Fit-out of Food Premises.</li> <li>Premises are required to register with: NSW Food Authority and The Hills Shire Council.</li> </ul>	Council's Environmental Health Officer (food premises) has no objection to the proposal.	Yes
<b>PART C SECTION 1 PARKING</b>		
<b>CONTROL</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
<b>2.1.1. General</b>		
(a) Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number. <b>Child Care Centres:</b> 1 space per employee plus 1 space per 6 children enrolled for visitors and/or parent parking	A minimum 23 car parking spaces is required, however, only 16 carparking spaces are provided.	<b>NO</b>
(b) All car parking spaces must be provided onsite.	All parking spaces would be provided on-site.	Yes
(e) Car parking for childcare centres must be situated in a convenient location, allowing for safe movement of children to and from the centre.	Council's Traffic Engineers do not support the proposal due to a non-compliance with the required number of car parking spaces.	Yes
<b>2.2 Parking for Disables Parsons and Parents with Prams</b>		
(a) A proportion of the total parking spaces required shall be provided for disabled persons in accordance with Table 2.  <b>Retail/Commercial:</b> 2% of total car parking	2% of 23 = 1 (rounded up to nearest whole number)  1 space provided within the basement.	Yes
(b) A continuous, accessible path of travel in accordance with AS 1428.1 shall be provided between each parking space and an accessible entrance to the building or to a wheelchair accessible lift.	Noted.	Noted
<b>2.6. Set Down Areas</b>		

(c) The following forms of development should provide set down areas for cars: <ul style="list-style-type: none"> <li>• Educational establishments.</li> <li>• Shopping centres.</li> <li>• Community centres.</li> <li>• Libraries.</li> <li>• Entertainment facilities.</li> <li>• Child Care Centres.</li> <li>• Recreational facilities.</li> <li>• Transport terminals and interchanges.</li> </ul>	The proposal is not in close proximity to a busy centre and thus does not require a set down area.	Yes
<b>2.7. Car Park Design and Layout</b>		
<b>2.7.1 General</b>		
(a) The layout of the car park should facilitate ease of access and egress of vehicles through the parking area at all times without congestion.	The proposal would facilitate ease of access and egress of vehicles through the parking area.	Yes
(b) For all development other than single dwelling houses and dual occupancies, vehicles must enter and exit the site in a forward direction.	The proposed double driveway would ensure vehicles exit the site in a forward direction.	Yes
(e) Provisions within this section are in accordance with AS 2590.1 –1993 Parking Facilities – Part 1 Off Street Car Parking. For further design requirements for car park design and layout please refer to the Australian Standard.	Noted.	Noted
<b>2.7.2 Parking Dimensions</b>		
(a) The minimum car parking dimensions required for right angle parking shall be provided in accordance with Table 4.  <b>Tenant</b> , employee and commuter parking, universities (generally parking all day): 2.4m x 5.4m  <b>Short-term</b> town centre parking, shopping centres, supermarkets, hospitals & medical centres (generally short-term parking and where children & goods can be expected to be loaded into the vehicles): 2.6m x 5.4m	The proposal achieves the minimum car parking dimensions required for right angle parking.	Yes
(d) All parking spaces shall be designed to ensure they can be accessed by a maximum 3-point combined manoeuvre, i.e. 1 movement to enter the space and 2 movements to leave, or 2 movements to enter and 1 to leave.	Council's Traffic Engineers do not support the proposal due to a non-compliance with the required number of car parking spaces.	No
(f) At blind aisles the end spaces should be made one metre wider than the adjacent spaces. (See Figure 3). Otherwise, provision should be made for cars to turn round at the end of aisles and allow vehicles to exit in a forward direction	The proposed basement layout ensure vehicles would leave in a forward direction.	Yes
(g) Spaces adjacent to obstructions must be 300mm wider on the side of the obstruction.	No spaces are proposed adjacent to obstructions.	Yes
(i) Basement parking areas should be setback the same distance as the building above.	The proposed basement is setback the same distance as the building above.	Yes
<b>2.8 Landscaping</b>		
(a) Outdoor parking areas are to be provided with two-metre-wide landscaping strips: <ul style="list-style-type: none"> <li>• Between rows served by different aisles.</li> <li>• Between spaces at a rate of one in every ten car parking spaces.</li> </ul>	The proposal does not seek outdoor parking areas.	N/A
(b) Outdoor parking areas are to be screened by a minimum of two metre wide landscaping strips. Such landscaping is to be of a mature and dense nature and be designed according to Part C Section 3 – Landscaping of this DCP.	The proposal does not seek outdoor parking areas.	N/A
(c) Driveways are to be screened by a minimum of two-metre-wide landscaping strip on either side.	The proposed driveways do not achieve a minimum of two-metre-wide landscaping strip on either side. The driveway is adjacent to the pedestrian access.	No
<b>PART B SECTION 2 RESIDENTIAL</b>		
<b>STANDARD</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>



<b>2.3</b> <b>Restricted Development Areas</b>	No RDAs are located on site.	N/A
<b>2.4</b> <b>Site Analysis</b> Development should be designed to respect the streetscape and site constraints such as topography, drainage, soil, landscapes, flora, fauna, drainage and bushfire hazard.  Development on land adjoining bushland reserves should prevent any impact on the reserves.	The proposed development would not be of a scale consistent to the streetscape. Upon review of the site analysis, it is noted that the proposed development does not respond to the natural features of the site and surround natural environment due to a disregard to the topography, as seen with the basement design and proposed fill in the rear, and the impact on mature trees located in the Murray farm Reserve.	No
<b>2.5</b> <b>Streetscape &amp; Character</b> The proposed development must:  Contribute to an attractive residential environment with clear character and identity.  Address the street and boundaries to the site.  Retain, complement and sensitively harmonise with any heritage item or conservation area in the vicinity that are identified in Council's Local Environmental Plan; and  Provide building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing.	The proposal is unlikely to contribute to an attractive residential environment for the following reasons: The proposed development is considered to be compatible as viewed from Murray Farm Road. However, when viewed from the east, from the Murray Farm Reserve, the proposal appears excessive in comparison to the existing developments. Additionally, when compared to the future character as per the Draft Parramatta DCP, the proposal would require a 14.1m rear setback when a 5m rear setback is currently proposed.	No
<b>2.9</b> <b>Erosion and Sediment Control</b> An Erosion and Sediment Control Plan (ESCP) is required to be submitted in accordance with "Managing Urban Stormwater – Soils and Construction", produced by the NSW Department of Housing.	An ESCP was prepared and submitted for assessment.	Yes
<b>2.10</b> <b>Heritage</b>	The subject site is not a heritage item or located within an HCA.	N/A
<b>2.12</b> <b>Stormwater Management</b> Concentrated stormwater flow must be connected to Council's drainage system.  Check 88B Instrument whether OSD is required, and whether the subject lot has legal rights to connect to drainage easements.  On Rural land, discharge points from tank overflows etc should not cause erosion or impact on adjoining properties.	Council's Engineering Officer cannot support the application in its current form.  Refer to engineering comments above in part 5 of this report.	No
<b>2.14.1</b> <b>Dwellings – Building Setbacks</b> Site specific controls apply to land adjoining Heritage Park facing Old Castle Hill Road. Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C – Precinct Plan Maps and Site-Specific Controls). Classified Road: 10m Other Road: 10m or as depicted on DCP Maps 1-4 Where the predominant setback pattern of the street exceeds the above requirements, the setbacks of three (3) adjoining dwellings either side of the proposed dwelling will apply.	Control = 10m Proposed = 10m	Yes
<b>Corner Setbacks</b>	The subject site is not a corner allotment.	N/A

Minimum 6 metres for the primary frontage and 4 metres to a secondary road frontage.													
<b>Side Setback</b> <table><tr><th>Height of building</th><th>Distance of wall to boundary line</th><th>Distance to eave to boundary line</th></tr><tr><td>1 or 2 storeys</td><td>900mm</td><td>675mm</td></tr><tr><td>3 storeys</td><td>1500mm</td><td>1175mm</td></tr></table>			Height of building	Distance of wall to boundary line	Distance to eave to boundary line	1 or 2 storeys	900mm	675mm	3 storeys	1500mm	1175mm	Side setbacks = 2m	Yes
Height of building	Distance of wall to boundary line	Distance to eave to boundary line											
1 or 2 storeys	900mm	675mm											
3 storeys	1500mm	1175mm											
<b>Rear Setback</b> <table><tr><th>Height of building</th><th>Setback</th></tr><tr><td>1 storey element of dwelling</td><td>4m</td></tr><tr><td>2-3 storey elements of dwelling</td><td>6m</td></tr></table>			Height of building	Setback	1 storey element of dwelling	4m	2-3 storey elements of dwelling	6m	Ground Floor Rear setback = 5m First Floor Rear setback = 5.33m First Floor Variation = 0.67m or 11.17%  The proposal is of a bulk and scale that is not compatible with the character of the neighbourhood.	No			
Height of building	Setback												
1 storey element of dwelling	4m												
2-3 storey elements of dwelling	6m												
<b>2.14.2 Site Coverage</b> <p>The maximum site coverage permitted is 60% (567m<sup>2</sup>) with the exception of land zoned E4 and land identified in the Map Sheets by pink shading, where the maximum site coverage is 30%.</p> <p>Dwelling building footprint is to be no more than 45% (255.15m<sup>2</sup>) of the site coverage, with the exception of land shaded pink on Map Sheets 1-42.</p>			Site coverage = 712.7m <sup>2</sup> or 75.5% Variation = 145.7m <sup>2</sup> or 15.5%  Dwelling footprint = 286m <sup>2</sup> or 50.4% of the site coverage Variation = 70.85m <sup>2</sup> or 5.4%  The proposal is of a bulk and scale that is not compatible with the character of the neighbourhood.	No									
<b>2.14.3 Building Height</b> <p><b>LEP 2012 4.3 Height of buildings</b></p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape.</p> <p>(b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>			Required = 9m Proposed = 8.66m	Yes									
<b>2.14.5 Landscaping</b> <p>All setback and car parking areas are to be landscaped and maintained in accordance with the provisions of Part C Section 3 – Landscaping.</p> <p>A Minimum 40% (378m<sup>2</sup>) landscaped area is required with the exception of land zoned E4, where the minimum is 70%.</p> <p>Note: Landscaped area does not include any paved or built upon area such as driveways, tennis courts, patios/decks, outbuildings or pools.</p>			Landscaping = 230.3m <sup>2</sup> or 24.4% Variation = 147.7m <sup>2</sup> or 15.6%  Without the minimum required 40% landscaping, the proposal would not be compatible with the character of the neighbourhood.	No									
<b>2.14.7 Cut and Fill</b> <p>Maximum 600mm of filling without a concealed dropped edge beam.</p>			Due to the proposed basement, the excavation on site reaches a maximum depth of 2.4m below natural ground level. In this instance, the level of cut is acceptable.	No.									

<p>Maximum of 1.5 metres with a concealed dropped edge beam.</p> <p>Excavation in excess of 1 metre may be permitted, subject to there being no adverse effect on the adjoining owners and the submission of structural engineer's details of retaining walls with the Development Application, or alternatively, a separate Development Application is to be submitted.</p>	<p>However, the rear of the site is proposed with 1.3m of fill along the rear boundary when a maximum of 0.6m is permitted. The proposed fill along the rear boundary does not comply with the DCO and is a poor response to the natural features of the site. The fill is proposed to reduce the difference between the levels of the ground floor outdoor play areas but results in visual impacts to the Murray Farm reserve and does not respond to the natural features of the site.</p>	
<p><b>2.14.8</b> <b>Building Materials</b> Materials to be compatible with surrounding developments. A schedule of external materials and colours is required.</p>	<p>A schedule of external materials and colours has not been submitted with the proposal.</p>	No
<p><b>2.14.9</b> <b>Visual and Acoustic Privacy</b> Buildings are to be designed to ensure maximum protection of privacy. Where appropriate consideration should be given to:</p> <p>using windows that are narrow, translucent or obscured or, in the case of bathrooms, have windowsills a minimum of 1.5 metres above the upper storey floor level; and</p> <p>ensuring that windows that face directly to the windows, balconies or yards of adjoining dwellings are appropriately screened.</p> <p>First floor balconies will not be permitted where they overlook living areas of adjacent dwellings.</p> <p>Windows should be placed to minimise direct viewing between dwellings.</p> <p>Dwellings are to be designed to limit the potential for noise transmission to the living and sleeping areas of adjacent existing and future developments.</p> <p>Careful consideration should be given to the location of air-conditioning systems, swimming pools and the like to minimise the impact on the amenity of adjoining properties.</p> <p>Private open space areas and driveways are to be designed to minimise noise impacts.</p> <p>Dwellings that adjoin classified roads are to be designed to ensure acceptable internal noise levels, based on Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.</p>	<p><b>Visual Privacy</b> The proposal does not overlook into adjoining properties. Window Placement and 1.4m high balustrade is proposed to further minimise potential for overlooking.</p> <p><b>Acoustic privacy</b> The proposal utilises a 1.8m high solid barrier along boundaries, and no issues were raised by council officers regarding the fence.</p> <p>A satisfactory acoustic report was submitted with the proposal.</p>	Yes
<p><b>2.14.10</b> <b>Solar Access</b> At least 50% of the required private open space within the subject property and that on adjoining properties, is to receive direct sunlight for a minimum of 4 hours between 9am and 3pm on 21 June.</p>	<p>The indoor and outdoor spaces will receive solar access throughout the day due to the orientation of the site and comply.</p>	Yes
<p><b>2.14.11</b> <b>Ventilation</b> Maximise ventilation and consider fans, louvered windows and seals.</p>	<p>The proposed design addresses the ventilation requirements for the childcare centre.</p>	Yes
<p><b>2.14.12</b></p>	<p>Noted.</p>	Noted



<b>Lighting</b> Lighting to comply with BCA and maximise natural lighting		
<b>2.14.14</b> <b>Car Parking and Vehicular Access</b> Car parking is to be provided in accordance with Part C Section 1 – Parking. Driveways and parking areas should enable the opportunity for landscape screening and be convenient and safe.  At least one car parking space must be provided behind the front building line.  Single garages: Minimum 5.5m x 3.0m.  Double garages: Minimum 5.5m x 5.0m.	The proposal is not support regarding car parking and vehicular access for the following reasons: - As per The Hills DCP 2012, a minimum 23 car parking spaces is required, however, only 16 carparking spaces are provided.  - A splay extending 2m from the driveway edge along the front boundary and 2.5m from the boundary along the driveway was not provided.  - A marked 1.2m wide separate pedestrian pathway from car parking spaces to the lift and stairs to provide a safe pedestrian environment was not provided.	No
<b>2.14.15</b> <b>Access and Surveillance</b> (a) Site planning and dwelling design is to allow general observation of the street, the site and the approaches to the dwelling entry from the inside of each dwelling. (b) Access to dwellings is to be direct and without unnecessary barriers. For example, use ramps instead of stairs/steps, consider the height and length of handrails and eliminate changes in level between ground surfaces. (c) Stairs and ramps are to have reasonable gradients and non slip even surfaces. Refer to Australian Standard 1428.1 - 2001 Design for Access and Mobility and supplementary AS 1428.2 - 1992.	The proposed front setback is considered to have been suitably treated to allow for passive surveillance to main entryways into the site.	Yes
<b>2.15</b> <b>Fencing</b> Site specific fencing controls apply to land adjoining Heritage Park and at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C– Precinct Plan Maps and Site Specific Controls).  Any boundary fencing shall be subject to the requirements of the Dividing Fences Act 1991.  Front fencing is to be consistent with the height, scale, and style of existing fencing in the street. Where there are no existing front fences, front fences are not supported.  Where front fencing over 1.2 metres in height is proposed, this shall be of open style.  Any fencing in the front setback over 1.2m in height shall be setback from the front boundary a minimum of 500mm to allow opportunities for landscaping to soften the impact of the fence.  Consideration will be given to fencing on secondary road frontage setbacks, subject to there being no adverse effect on the immediate area and on traffic visibility and be of a design to incorporate features such as landscaping bays or a variation/combination of materials.  Side and rear boundary fencing should be a maximum of 1.8 metres in height.	The proposed fencing on site is acceptable	Yes

<p><b>2.16 Waste Management</b></p> <p>Adequate storage for waste materials must be provided on site.</p> <p>All waste storage areas must be screened from view from any adjoining property or public place.</p> <p>Bin storage space is to be:</p> <p>incorporated into the landscape design of each dwelling; and</p> <p>adequate for one 240 litre garbage bin and one 240 litre recycling bin per dwelling.</p> <p>Location of the bin storage space must allow the bins to be wheeled to the street kerb over flat or ramped surfaces with a maximum grade of 7% and not over steps, landscape edging or gutters or through the dwelling.</p>	<p>An adequate storage and waste management plan has been provided as part of this application.</p>	<p>Yes</p>
<p><b>2.17 Services</b></p> <p>Ensure sufficient water supply and disposal of sewage measures are available.</p> <p>All water, gas, power and communication services are to be located underground.</p>	<p>Yes</p>	<p>Yes</p>
PART C SECTION 3 LANDSCAPING		
CONTROL	PROPOSED	COMPLIANCE
<b>3.1. General Planning and Design Controls</b>		
<p>(a) The landscaping of any site should have regard to the natural environment of the location and be consistent with landscaping character of the area.</p> <p>(b) Landscaped areas shall have a minimum width of two metres</p> <p>(h) For all planting on slab and planter boxes allow the following minimum soil depths:</p> <ul style="list-style-type: none"> <li>• 1.2m for large trees, 1m for medium trees and 800mm for small trees.</li> <li>• 500-600mm for shrubs</li> <li>• 200-450mm for groundcovers; and</li> <li>• 200mm for turf.</li> </ul>	<p>Council's Landscape Officer has reviewed the application and notes that the submitted design does not sufficiently address all landscape matters and will have impacts mature trees in the Murray Farm Reserve. See landscape comments.</p>	<p>No</p>

## 10. Development Contributions

A condition of consent relating to the payment of the contribution would have been imposed if the application was recommended for approval. A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

## 12. Bonds

A standard condition of consent has been imposed requiring the Security Bond to be paid prior to the issue of a Construction Certificate. A condition of consent relating to the payment of the Security Bond would have been imposed, if the application was recommended for approval.

## 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 conditions of

consent.

#### 14. The likely impacts of the development

The assessment demonstrates that the proposal will have a significant adverse impact upon the adjoining property, Murry Farm Reserve.

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as impacts on mature trees, excessive fill, and built environment impacts such as build form. In the context of the site and the assessments provided by Council's experts, the development is not considered satisfactory in terms of environmental impacts.

#### 15. Suitability of the Site

The subject site cannot accommodate the development of a 65 place childcare centre of this scale as the site requires services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties.

With the proposal of 65 children, the site is not able to provide the required area for unencumbered outdoor play area and the required number of carparking spaces. The excessive scale is additionally impacting on the mature trees in the neighbouring Reserve.

In regard to drainage of the site, the proposed easement will have very detrimental impacts on Council's assets and the mature trees in the Murray Farm Reserve.

Suitable investigations and documentation have not been provided to demonstrate that the site can be made suitable for the proposed development, however, the development is consistent with the land use planning framework for the locality.

No natural hazards or site constraints exist that are likely to have an unacceptably adverse impact on the proposed development.

Subject to the conditions provided within the recommendation to this report, the site is considered to not be suitable for the proposed development.

#### 16. Public Consultation

In accordance with the City of Parramatta Notification Requirements, the Development Application was notified.


The notification period started on 7 March 2023 and ended on 28 March 2023. Twelve (12) submissions were received objecting to the proposal.

Key concerns raised in the submissions are addressed below.

Issue	Response
<b>The proposed development will cause noise pollution, impacting adjoining properties.</b>	A satisfactory acoustic report was submitted with the proposal and reviewed by Council's specialist who raised no objection.
<b>Noise from the childcare centre is unlikely to be manageable by closed windows and acoustic barriers.</b>	A satisfactory acoustic report was submitted with the proposal and reviewed by Council's specialist who raised no objection.
<b>Increased traffic associated with the proposed development will increase noise levels in the area, reducing the amenity of adjoining properties.</b>	The increase in traffic will not increase the average daily traffic volume to be over 20,000 vehicles per day. As per the State Environmental Planning Policy (Transport and Infrastructure) 2021, an assessment on the noise generated by traffic is not triggered.
<b>The Plan of Management is inconsistent with supporting documents.</b>	The Plan of Management is not adequately addressing the proposal and a substantial amount of the information included seems generic and unspecific to the proposal.

	The submitted plan of management is not satisfactory.
<b>The proposed development will result in light pollution into adjoining properties.</b>	The proposal is not intended to operate at night and no light would be left on during closed hours. The proposed hours of operation are 7am – 6pm, Monday to Friday.
<b>The proposed development will generate traffic issues in an area that is already congested</b>	The proposal will have a detrimental impact on the traffic conditions in the area as insufficient parking is proposed on site.  Additional on-site parking is required.
<b>The area already has a childcare centre located nearby; another should be considered unnecessary.</b>	In the current vicinity, there are no childcare centres running. A proposed DA for a childcare centre was lodged with council on 19 Tracey Avenue Carlingford (approx. 280m away), however, the application was refused.
<b>The proposal is incompatible in the area as it already hosts a primary school</b>	The proposal is for a childcare centre and does not care for children in Primary school. Each establishment would care for children at different ages.
<b>The proposed childcare centre is not consistent with Zone R2 Objectives and the plan of management does not address the Zone R2 objectives.</b>	A childcare centre is permissible in an R2 Low Density Residential zone with consent.
<b>The proposed childcare centre is to be compatible with the existing “low density residential character” and is not required to consider the future population.</b>	It has been determined that the childcare centre is not compatible with the current character of the area and the future character. The size and scale of the proposal would be detrimental to the locality and is not supported.
<b>The large number of children will reduce the neighbour’s privacy and amenity.</b>	The proposal maintains visual privacy to neighbouring residential developments.
<b>The value of surrounding properties will be reduced.</b>	This is not a matter of consideration under clause 4.15 of the Environmental Planning and Assessment Act 1979.
<b>With increased traffic and vehicles moving in and out of the center, there is a high risk of accidents involving young children who may be running around, playing outside the premises or crossing the road.</b>	All children in the childcare centre will be inside and not playing in the street and the frontage. The vehicular access to the site is required, however, allowing for separation between the pedestrian access and vehicular access has been commented on in the report.
<b>Increased risk of air pollution which could affect the health and well-being of residents in the surrounding area.</b>	Childcare centres are not known to be producers of air pollution and if a centre was identified to contribute to risky air pollution, then the proposal would be a risk to residents, and the children in the centre.  The proposed childcare centre will not be detrimentally increasing the risk of air pollution in the area.
<b>The site is nearby to a no leash dog park and sports field which puts children at risk</b>	The children in the centre are to remain in the centre as is the norm for all childcare centres. The nearby park is not considered part of the facilities of the centre.
<b>The traffic study and Acoustic reports contains conflicting and/or inadequate information and was not conducted at an appropriate time or in an appropriate way.</b>	The proposed traffic study will need to be revised as the proposal does not provide the required number of car parking spaces.  The submitted acoustic report was reviewed by Council’s specialist who raised no objection.
<b>The overall scale and the facade of the building is not in keeping with the adjacent houses along the street, the setbacks are also considered unreasonable.</b>	It has been determined that the childcare centre is not compatible with the current character of the area and the future character. The size and scale of the proposal would be detrimental to the locality and is not supported.
<b>All owners and residents within 1km of the subject site were not notified of the proposed development.</b>	The proposal was notified as per Council’s Consolidated Notification Requirements.



	<p>Written notification would be provided to the 10 closest surrounding properties. Where there is no impact to adjoining properties to the rear of the subject site, notification would be limited to the 5 closest surrounding properties to the side and opposite the subject site.</p> <p>In this case, 15 properties (excluding 73 Murray farm Road) were notified of the application and a notification sign was placed on site.</p> 
<b>All information was not made available for public consultation</b>	All relevant information regarding the development application was available for public consultation.
<b>The Arboricultural Impact Assessment did not conduct below ground inspections and did not consider the proposed stormwater plans.</b>	<p>The Arboricultural Impact Assessment was missing vital information that would have assisted in the assessment of the application.</p> <p>Due to the missing information a proper assessment cannot be conducted, and the application cannot be supported.</p>
<b>Increased stormwater into Murray Farm Reserve will cause additional flooding and prolonged water sitting on the grounds of the reserve, reducing access to the reserve for recreation.</b>	The proposed Stormwater proposal is not supported due to insufficient information and the substantially detrimental impacts on the assets and mature trees in Murray farm reserve.
<b>Impact of the proposed demolition and development on the trees and landscape on the adjoining properties.</b>	The proposal will have substantially detrimental impacts on the assets and mature trees in Murray Farm Reserve. Council cannot support the proposal due to these impacts.
<b>The proposal allows for insufficient car parking</b>	Council has determined that insufficient carparking is proposed on site and the application is not supported.
<b>The Waste Management Plan including ongoing storage, maintenance and disposal of bins is considered inadequate.</b>	Council's Environmental Health Officers have reviewed the proposal and raised no issues to the waste management plan submitted.

## 17. Public interest

The proposal is not in the public interest as the built form would have a detrimental impact on the local character and the substantial impacts on the Murray Farm Reserve would reduce to quality of a vital open green space used by the community.

## 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.

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.

## 21. Recommendation

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

- A. **That the Parramatta Local Planning Panel**, exercising the functions of Council under section 4.16 of the Environmental Planning and Assessment Act 1979, REFUSE development consent for DA/116/2023 for the *Demolition of existing structures and construction of a two storey 65 place childcare centre with 16 basement car parking spaces* on land at 73 Murray Farm Road, Carlingford for the following reasons:
1. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the requirements to the following clauses of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas*
  2. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the requirements to the following clauses of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 Chapter 3 - Educational Establishments and Child Care Facilities*:
    - a. Clause 3.22 – Concurrence of the Regulatory Authority
    - b. Childcare Planning Guidelines Part 2 – Design Quality Principles
    - c. Childcare Planning Guidelines Part 3.1 Site selection and location
    - d. Childcare Planning Guidelines Part 3.2 Local character, streetscape and the public domain interface
    - e. Childcare Planning Guidelines Part 3.3 Building orientation, envelope and design
    - f. Childcare Planning Guidelines Part 3.4 Landscaping
    - 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 4.3 Toilet and hygiene facilities
    - k. Education and Care Services National Regulations Part 4.5 Administrative space
    - l. Education and Care Services National Regulations Part 4.7 Premises designed to facilitate supervision
    - m. Education and Care Services National Regulations Part 4.9 Outdoor space requirements
    - n. Education and Care Services National Regulations Part 4.10 Natural environment
  3. In accordance with Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply the following parts of The Hills Development Control Plan 2012:
    - a. Part B, Section 2.4 Site analysis,
    - b. Part B, Section 2.5 Streetscape & character,
    - c. Part B, Section 2.12 Stormwater Management,
    - d. Part B, Section 2.14.1 Rear Setback,
    - e. Part B, Section 2.14.2 Site coverage,
    - f. Part B, Section 2.14.5 Landscaping,
    - g. Part B, Section 2.14.7 Cut and fill,
    - h. Part B, Section 2.14.8 Building Materials,
    - i. Part B, Section 2.14.14 Car Parking and Vehicular access,
    - j. Part B Section 2.34 Centre Based Child Care Facilities – Additional Controls
    - k. Part C, Section 2.1.1 Parking,
    - l. Part C, Section 2.7.2 Parking Dimensions,
    - m. Part C, Section 2.8 Landscaping,
    - n. Part C, Section 3.1 Landscaping
  4. In accordance with Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposal is not suitable for the site.
  5. In accordance with Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not in the public interest.
- B. **That** Council advise those who made a submission of the determination.