



City of Parramatta	
File No:	DA/314/2023

SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

DA No:	DA/314/2023
Subject Property:	52 Hammers Road, NORTHMEAD NSW 2152
Proposal:	Demolition, tree removal and construction of a 76 place child care centre with basement parking.
Date of receipt:	5 June 2023
Applicant:	The Trustee for Northmead P Discretionary Trust
Owner:	Owner - Northmead P Pty Ltd
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	26 submissions
Recommendation:	Refusal
Assessment Officer:	Denise Fernandez

Legislative Requirements

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• Parramatta Local Environmental Plan 2023 (PLEP 2023)• Parramatta Development Control Plan 2011 (DCP 2011)
Zoning	R2 Low Density Residential
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	No
Clause 4.6 variation	No
Delegation	Parramatta Local Planning Panel (PLPP) due to the number of submissions received (more than 10)

1. Executive Summary

The wider locality is characterised by low-density residential development in 1 and 2 storey-built forms, either as detached dwellings or dual occupancy developments in nature. The local area is also framed by ample on-site landscaping.

The proposed development for a 76-place childcare centre is located on an allotment in a prominent location on the corner of Hammers Road and Hemsworth Avenue. Immediately adjoining the site to the north-east and west and opposite the site at Hammers Road and Hemsworth Avenue are one and 2 storey residential developments within a landscape setting.

The issues with the development arise from the proposed scale of the proposal. The development does not currently comply with the minimum outdoor play areas for a 76 place childcare centre pursuant to Chapter 3 of the Transport and Infrastructure SEPP. Due to the number of children proposed, the childcare functions are carried out over 2 storeys with indoor outdoor play areas located on both floors. As a result, the built form presents as a bulky development which is exacerbated by unrelieved elevations, minimal fenestrations, and the use of extensive acoustic barriers. The Design Excellence Advisory Panel further notes that the rear portion of the development where the first-floor outdoor play is located presents as a bulky mass when viewed from the adjoining development. It is noted that the development does not comply with the secondary front setbacks, rear setbacks, and side setbacks under PDPC 2011. This further exacerbates the perception of bulk and scale of the development.

The outdoor play areas are located to the rear of the site which immediately adjoins the boundaries of the sites to the north-east and to the west. To ameliorate the acoustic impacts to these, extensive acoustic fencing is provided. These are to be at maximum height of 2.2m from the Natural Ground Level. The upper floor is also to be extensively attenuated with acoustic barriers at a maximum height of 1.6m. Due to the number of acoustic barriers required, these appear as imposing structures from neighbouring developments.

The amenity impacts because of the proposal include increased overlooking impacts to neighbouring properties, particularly from the first-floor outdoor play area. The Acoustic Report recommends staggering the number of children using the outdoor play areas to reduce noise impacts to adjoining properties, however concern is raised that this form of noise management is not appropriate as it cannot be regulated.

Despite the proposal being numerically compliant with FSR and height for the site, the design of the development with extensive blank walls and the extension of the development with the provision of the first-floor outdoor play area creates additional overshadowing of the neighbouring property to the rear. A permissible, compliant development of a residential nature could result in similar solar access impacts; however, the lower density impact of the development offsets any adverse acoustic and privacy impacts.

Concern is also raised with regards to the internal amenity within the childcare centre, in particular the amount of solar access to the outdoor play area on the ground floor as it appears to be limited due to the topography and the cantilevered nature of the first-floor outdoor play area. A lack of information has also been submitted that demonstrates the indoor play areas on the ground floor will receive satisfactory solar access and ventilation. The quality of the outdoor play areas is also of a concern particularly as it is over 2 levels and that no access is provided for users of the space that have accessibility issues.

Part 5 of Parramatta Development Control Plan (PDPC) 2011 envisages childcare facilities to be one storey in nature, particularly in residential zones to mitigate adverse amenity impacts on adjoining properties. However, if the facility is multi-storey in nature, that the upper floors only be used for storage and staff facilities. The proposal conflicts with this design control as it proposes a facility that is a 2-storeys in nature with childcare components located on the upper floors.

With regards to the traffic, Council's Traffic Engineers are concerned that the development will result in adverse traffic impacts on the local road network. This is due to the number of vehicles required for a 76 place childcare centre and that this will result in extensive queueing, restricting the two-way/lane movement on Hemsworth Avenue and that the safety of pedestrians is at risk when crossing the street from Hammers Road as it requires passage between vehicles queueing to turn into the facility.

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

The application was reviewed by the Design Excellence Panel (DEAP) who raised concerns with regards to the design of the development, its bulk and scale, the circulation within the facility and landscaping. As such, the development in its current form does not demonstrate design excellence and is unsuitable for the site.

The application was notified/advertised and received 26 unique submissions within the notification period. The issues raised related to traffic movement and congestion, air quality, amenity, safety and security, solar access, privacy and acoustic impacts.

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

2. Site Description and Conditions

The subject site is legally described as Lot 23 in DP 1053952 and commonly known as 52 Hammers Road, Northmead. The site has an approximate area of 1,024m².

The lot currently comprises single storey brick dwelling with a fibro garage to the rear. Vehicular access is provided off Hemsworth Avenue. The site is generally rectangular in shape, sloping from the south-western corner towards Hammers Road.

The site is a corner allotment with two street frontages. The frontage at Hemsworth Avenue is 47.95m in length and the frontage at Hammers Road is 20.97m.

Surrounding the site are dwelling houses and dual occupancy developments. The immediate surroundings are predominantly low-density residential dwellings of one and two storeys in nature.

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 - 4** below.



Figure 1: Aerial view of the subject site and surrounds. Subject site outlined in blue. Source: Nearmap: August 2023.



Figure 2: Subject site as viewed from the corner of Hammers Road and Hemsworth Avenue. Source: Site Inspection.



Figure 3: View of developments opposite the subject site on Hammers Road. Source: Site Inspection.



Figure 4: View of developments opposite the subject site on Hemsworth Avenue. Source: Site Inspection

3. The Proposal

Development Application 314/2023 was lodged on 5 June 2023 for the demolition, tree removal and construction of a 76 place child care centre with basement parking. Specifically, the application seeks approval for:

- Enabling works which comprise:
 - Demolition of all existing structures on site
 - Removal of 7 trees throughout the site
- Construction of a 2 storey childcare centre for 76 children with the following details:

Basement Level

- 20 parking spaces (10 staff parking, 9 visitor spaces and 1 disabled space), Bin room, Services, Lift and Driveway Ramp

Ground Level

- Reception, Managers room, kitchen, cot room, staff toilet, stairs, lift, Playroom 1 (0 – 2 year olds, 20 children), 1 x children toilet, Playroom 2 (2 – 3 year olds, 26 children) and Outdoor Play Area (0 – 3 year olds, 46 children)

First Floor

- 3 x staff rooms, 2 x staff toilets, laundry room, Playroom 3 (3 – 5 year olds, 30 children), 1 x children toilet and Outdoor Play Area (3 – 5 year olds, 30 children).

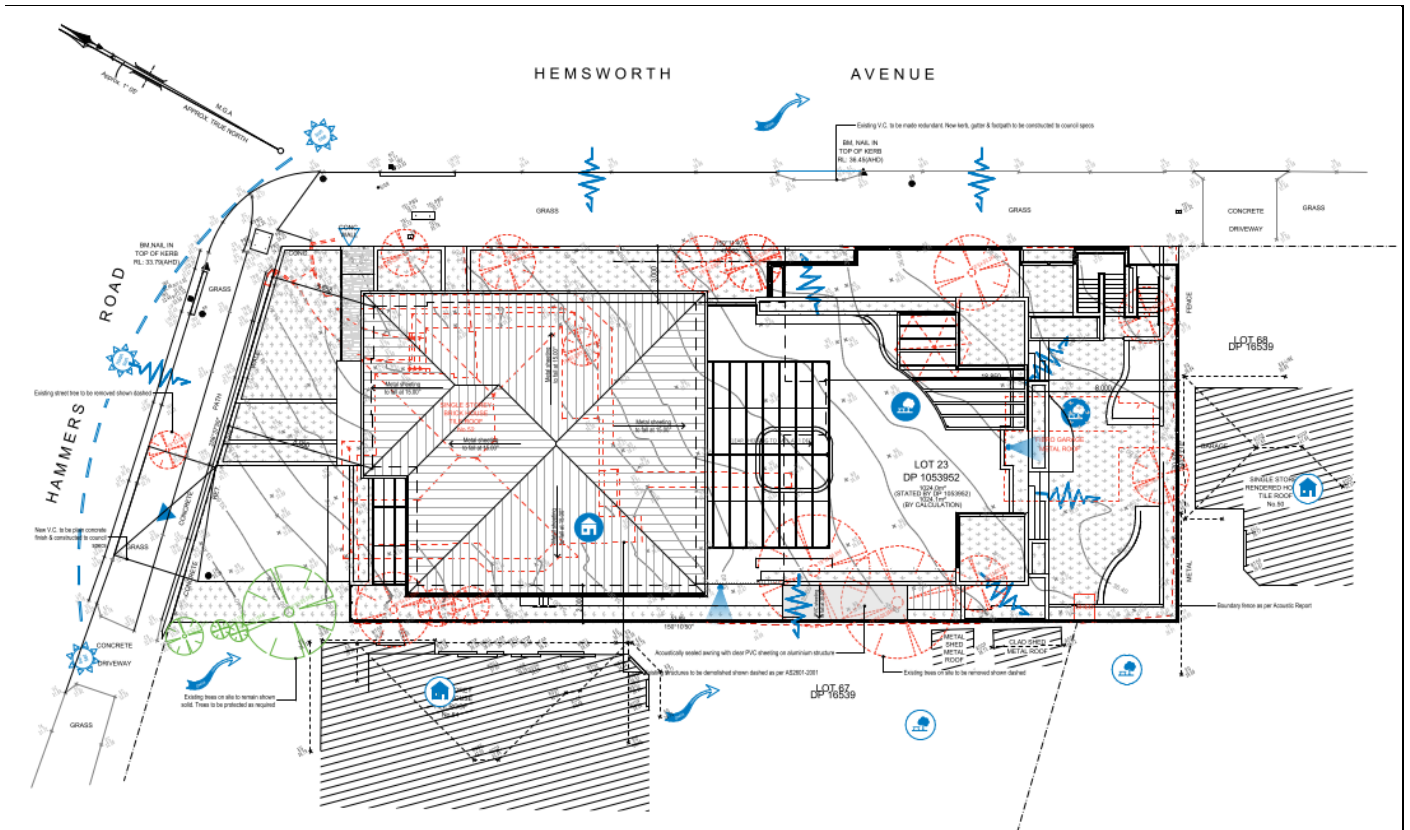


Figure 5: Site Plan. Source: Design Corp Architects



Figure 6: Photomontage. Source: Design Corp Architects

4. Permissibility

Parramatta Local Environmental Plan 2023

The site is zoned R2 Low Density Residential. The sites immediately adjoining the subject site is also zoned R2. See Zoning Map below.



Figure 7: Zoning Map. Subject site outlined in yellow. Source: (ePlanning Spatial Viewer)

The proposed development is defined as the following under PLEP 2023:

Childcare centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children’s Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children’s parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises

The childcare centre is permissible with consent within the R2 Low Density Residential zoning applying to the land.

5. Relevant Application History

Date	Comment
5 June 2023	DA/314/2023 was lodged with Council.
8 June 2023	Site Inspection

13 June to 4 July 2023	21 Day advertising / notification of the application
13 July 2023	Design Excellence Advisory Panel (DEAP) review of the application
25 July 2023	Council received notice that the applicant has lodged a Class 1 Appeal.

6. Referrals

Design Excellence Advisory Panel

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

1. While childcare is a permissible use in the low density R2 zone, it is critical that all efforts are made to minimise impacts on surrounding residential buildings from acoustic sources and achieve a built form outcome that is complementary to the residential character of the area. Further work is required to address the substantial building footprint and bulk, and basement extent that limits landscaping opportunities and scope for outdoor play.
2. An improved solution would have all the outdoor play on ground level, but it is understood the intention is to spread these areas over two levels. First floor outdoor play area cover a lot of the open space on the ground floor which significantly reduces open space amenity. More natural light should be introduced to the lower level through the provision of penetrations in the upper deck and some integrated landscape treatment through the voids.
3. The overall built form should be reduced – especially at the rear where it is liable to adversely impact on the adjacent property – but also within the built form, which struggles to house spacious entry, circulation, and childcare spaces. A reduction in childcare numbers and associated parking would reduce required areas, thereby assisting internal planning and reducing impacts on neighbouring properties. Removal of two car spaces would allow for a greater setback to the southern neighbour, an adjustment of levels and enable a more cohesive outdoor play area at ground level, with easier access and improved acoustic barrier treatment.
4. Outdoor natural play areas should be encouraged. The setting back of the upper level would allow for the retention of some of the existing trees and natural ground, with potential for more supplementary planting to benefit rear and side screening to the neighbours.
5. If the stacked and split-level play areas are kept, there is opportunity for widening the rear stairs and introducing a more interesting transition between levels with more space for gathering at different levels. There is also scope to introduce some playful and visually stimulating elements and more organic forms to animate these transition spaces (ref: UTS childcare – Blackfriars St. Chippendale), and *this also applies to the internal circulation*.
6. The proposed building presents long unrelieved elevations to both the east and west. From the corner the extensive glazed stairwell and the length of the façade along Hemsworth Avenue present like a more commercial building. It is recommended that some visual breaks are provided between the building and outdoor terraces to provide articulation that would be more aligned with the appearance of a dual occupancy in the streetscape. Additional trees along the Hemsworth Avenue boundary are recommended but they should be spaced such that their canopies will not interfere with that of the existing street trees.
7. The north west corner has a large glazed enclosure to the stair which requires sun controls to reduce heat load, while also enabling more façade modelling that would improve the built form character. Along Hemsworth Ave the upper level windows could be expressed in a bay form creating some seating nooks to the internal playroom.
8. The main pathway and entry to the reception area would benefit from more space for pram parking and social bump space for parents. While the need for a secure and safe environment is understood, it would be beneficial to create more open and transparent interiors that are spatially interesting for the children, and to introduce playful elements within the circulation areas as noted above.
9. The ground level central toilet area layout may have circulation issues due to the convergence of a number of access doors and poor internal planning; more space should be considered with allowance for surveillance.
10. ESD measures and full electrification strategy for the building is recommended, and consideration should be given to the introduction of other critical sustainability initiatives such as solar PV panels on the roof, ceiling fans to assist natural ventilation and rainwater tanks for irrigation.

11. Assuming A/C is included, the condensers will need to be located out of sight from the street and with acoustic enclosure. Any other building services should be indicated and integrated into the building.

Panel Recommendation

The Panel has no objections to the proposed land use. But does not consider that design excellence has been achieved yet. The Panel recommends further design development and a revised proposal be prepared that adequately responds to the issues noted above.

Once amendments have been incorporated into the proposal, it should be returned to the Panel for discussion.

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

Planning Comment

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

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

Referral	Comment
Acoustic	No objections, subject to conditions of consent.
Waste	No objections, subject to conditions of consent.
Food	No objections, subject to conditions of consent.
Engineering	No objections, subject to conditions of consent.
Contamination	<p>Not supported, additional information required.</p> <p>The PSI report prepared by GCA concluded that ‘...potential for significant contamination of onsite soil to be low. However, the site requires a Detailed Site Investigation (DSI) to delineate the distribution and concentrations of Lead and to confirm the depth of fill. Based on the outcome of the additional investigation the soil should be managed under a Remediation Action Plan (RAP).’</p> <p>Further information is required to enable assessment of this application, and a further referral is required upon receipt of the additional information.</p>
Universal Access	<p>Not supported, additional information required.</p> <p>The following information is to be addressed in amended plans:</p> <ol style="list-style-type: none"> 1) Ensure the lift is as large as possible and provides a sufficient footprint to provide the greatest amenity for parents with prams, person using a wheelchair or other mobility devices and the use of kitchen trolleys etc. 2) There does not appear to be accessible access provided to the upper tier of the ground floor play area. 3) The basin within the first floor level accessible sanitary facility appears to encroach into the required circulation areas. 4) Ensure features within one of the staff rooms can be adjusted to suit a person with disabilities if one was to be employed. 5) Low level thresholds should be provided at all doors accessing outdoor areas. 6) The Abutment of differing surfaces shall have a smooth transition. <i>Design transition shall be 0 mm. Construction tolerances shall be as follows:</i> <ol style="list-style-type: none"> (a) 0 ±3 mm vertical. (b) 0 ±5 mm, provided the edges have a bevelled or rounded edge to reduce the likelihood of tripping. AS1428.1.7.2.

- 7) Equipment and furniture within the communal areas including the foyer/reception areas will require accessible and inclusive features suitable for a person with a mobility and other impairments.

Note: AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with back and arm rests.

Landscaping

Not supported, additional information required.

An amended landscape plan is required. The landscape plan submitted by the Architect fails to address the specific childcare landscaping objectives and principles of the Development Control Plan or the Childcare Planning Guideline. The following information is to be addressed and indicated in the revised Landscape Plan:

1. A minimum 1m wide continuous screening planting bed to be provided to all rear boundaries and within the inside of all external playground boundaries. It is to be integrated with the fencing for privacy and amenity. Hedge screening planting to be provided in minimum 200mm containers and must be able to grow to 1.8m at maturity;
2. Note: screen planting is not to be included in calculations of unencumbered outdoor space;
3. Ensure the unencumbered outdoor spaces to be designed to allow children to explore and experience the natural environment and ensure the provision of outdoor play areas cater for a variety of experiences for the different aged children including; learning, active and quiet time and other development experiences. Play elements to be clearly nominated on the plans;
4. Planting / garden areas to have an appropriate width to sustain plantings proposed (minimum 1m);
5. Ensure all of the soil volume and depth within the planters / on the podium level / above the basement and OSD meet the prescribed soil volumes to support the mature growth of the proposed trees and shrubs. Planting details, including on-structure tree planting, shrub planting, turf planting to show indicative soil depths, widths and soil volumes to support the mature growth of the plants proposed as per the following;
 - Typical tree planting on structure to show overall 800-1200mm soil depth. (Soil Volume to be reflective of proposed tree species size)
 - Typical shrub planting on structure 500-600mm soil depth;
 - Typical turf planting on structure 200-300mm soil depth.
6. Ensure are plans between different disciplines (Architectural / Civil) are fully coordinated. Note this includes ensure there is adequate soil cover depth for landscape areas over the OSD;
7. Ensure all sections are accurate and indicate the proposed design intent. Planting structures to be clearly defined on the plans and details provided indicating soil depths (and wall heights) to meet the requirements of any proposed trees and/or shrubs and plants;
8. Spot levels across the development, including any top of walls;
9. Ensure the trees are to be provided in minimum 100 litre containers, reach a minimum mature height of 10m and be planted at a minimum distance of two (2) metres from any drainage line and a minimum 3.5m setback to the outside of any legally constructed building.
10. Additional detail is required regarding the 'lockable hinged panels to the acoustic screen'.
11. Additional detail is required through the decking and tree to show soil levels and removable sections within the decking, for example, to allow for tree growth.

	<p>12. Replace <i>Melaleuca quinquenervia</i> (Broadleaf Paperbark) with a smaller native tree suitable to the space available to the front garden area.</p> <p>13. Ensure plant species take into consideration solar orientation and be safe and suitable for use in a childcare. Ensure all of the proposed plant species are not considered poisonous, toxic and harmful or cause allergic reactions if any part of the plants are touched or ingested. Careful consideration should be given to choosing plants that are vibrant, colourful and appeal to the senses so they can be incorporated into the age-appropriate learning experience.</p> <p>14. Revise the planting schedule to indicate the above changes and correct quantities.</p> <p>15. Indicate the total landscape and deep soil zone calculations. (Note: impervious surfaces are not to be included in the deep soil calculations)</p>
<p>Social</p>	<p>Not supported</p> <ul style="list-style-type: none"> • The proposed design of the child care centre as a multi-storey development increases risk around safety and evacuation as children are proposed to be located on an above-ground level. • Increased intensity of use at the site within an R2 Low Density Residential Zone • Noise generated by the development may negatively impact upon other residents in the street/adjacent properties. • The inclusion of synthetic grass in all outdoor play areas • Noise and amenity impacts to neighbouring properties during construction. <p>The following considerations should be reviewed to ensure the childcare centre operates satisfactorily.</p> <ul style="list-style-type: none"> • That, the applicant reconsiders the design of the child care centre in order to situate play spaces for children on the ground floor. • That, the applicant reconsiders the design of the child care centre in order to situate play spaces for children on the ground floor. • That, acoustic impacts are reduced through the design of the proposed child care centre, and not through operational measures such as the staggering of outdoor play, which is currently recommended in the Environmental Noise Assessment. • That, the outdoor spaces remove synthetic turf and incorporate natural turf and other natural elements. • That, the applicant ensures there is adequate solar access and sun protection, as the SEE states that each indoor and outdoor playroom within the development will not receive significant amounts of direct sunlight to need a shade audit assessment. • That, the applicant considers providing an additional barrier between the centre entrance and the ground floor playrooms.
<p>Traffic</p>	<p>Not supported.</p> <p>Based on the analysis and information submitted by the applicant, the proposed development is not supported on Traffic grounds and fails to meet Objectives O.1 and O.2, and the Design Principles and Controls of section 5.2.3.4 of the Parramatta DCP 2011. The development will result in adverse impacts to the road network and the residential amenity of the area for the following reasons:</p> <ol style="list-style-type: none"> 1. Observations by Council staff have noted that there are long traffic queues in Hammers Road in the eastbound direction in the AM peak that regularly extend past the subject site. Any vehicles turning right out from the childcare centre will be required to join the existing queue and may result in them selecting unsafe gaps in traffic. 2. Right turns out from the childcare centre will be difficult and will likely cause delays within the basement carpark itself which could impact on how the car park performs.

This could result in parents choosing not to use the car park and instead park on the street.

3. Hemsworth Avenue is narrow with a carriageway width of approximately 7.3m. Should parents park in this street to drop off their children, it will obstruct two-way traffic movements.
4. Parents that walk to the childcare centre living on the north side of Hammers Road will be required to cross the road in between queued traffic which will obstruct their visibility to westbound motorists.

PLANNING ASSESSMENT

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2011 (PLEP 2011) (repealed)
- Parramatta Development Control Plan 2011 (PDCP 2011)
- Parramatta Local Environmental Plan 2023 (PLEP 2023).

Compliance with these instruments is addressed below.

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

Standards and Provisions	Compliance
Part 3.3 Early Education and Care Facilities – Specific Development Controls	
CI. 3.22 Centre based childcare facility – concurrence of Regulatory Authority required for certain development	No. Whilst the application does not apply for a variation to regulation 107 (indoor unencumbered space requirements) or Regulation 108 (outdoor unencumbered space requirements) of the Childcare Planning Guidelines, the area calculated for outdoor space is deficient as it appears to include screen planting. The minimum required for outdoor play areas for 76 children is 532m ² . However, only 498m ² of outdoor play area is provided. The proposal meets the minimum indoor play areas at 248m ² for 76 children.
CI 3.24 Centre based childcare facility in Zone IN1 or IN2	N/A – The subject site is zoned R2 Low Density Residential
CI 3.25 Centre based childcare facility – Floor Space Ratio	Yes The site is zoned R2 Low Density Residential. The proposed FSR is 0.5:1 (508.46m ²).
CI 3.26 Centre based childcare facility – Non discretionary development standards	No <u>Location</u> – The site is located approximately 300m from a childcare centre on 15 Hammers Road and 400m from another childcare at 89 Kleins Road. <u>Indoor Space</u> – The proposal complies with the requirements under Regulation 107 of the Childcare Planning Guidelines and proposes indoor unencumbered space of 248m ² . <u>Outdoor Space</u> – The proposal requires a minimum 532m ² of outdoor unencumbered space for 48 children under Regulation 108 of the Guidelines. The proposal provides insufficient outdoor play areas. <u>Site Area and Dimensions</u> – The site is of a satisfactory size and shape.

Colour of building and materials – The proposed building materials and colours are satisfactory.

7.2.1 Childcare Planning Guidelines 2021

Considerations and Requirements	Compliance/Discussion
Part 3 – Matters for consideration	
3.1 Site selection and location	
<p>C1 For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • the acoustic and privacy impacts of the proposed development on the residential properties • the setbacks and siting of buildings within the residential context • traffic and parking impacts of the proposal on residential amenity. 	<p>No</p> <p>The subject site is a corner allotment in a low-density residential location. The sites immediately adjoining and opposite at both Hemsworth Avenue and Hammers Road are one-storey/2-storey dwellings. This location within Northmead is also framed by ample landscaping and significant vegetation.</p> <p>Despite compliance with height and FSR for the site, the development appears bulky and not in keeping with the present or envisaged scale of the immediate and wider locality. There are ample blank walls and acoustic fencing/walls that are viewed as imposing structures from adjoining properties.</p> <p>The scale of the development which proposes 76 children cannot be satisfactorily accommodate within the ground floor which is evident by the provision of the first-floor facilities. As a result, the first-floor outdoor play area extends the bulk of the development particularly along Hemsworth Avenue which creates overlooking and overshadowing impacts on adjoining properties.</p> <p>The provision of first floor outdoor play areas in this location, notwithstanding the construction of acoustic barriers as recommended by the Acoustic Report, but in addition, also requires limiting the number of children using the first-floor outdoor play area or staggered play to ensure acoustic standards are met. This is not appropriate acoustic measure as the practice cannot be regulated nor does it allow the required flexibility for the facility to execute daily activities and its program.</p> <p>It is evident that the development proposes a capacity that is beyond that can be accommodated on the site, despite the 2 storey nature of the proposal as outdoor play areas on the ground floor encroaches on the front setbacks for developments within the low-density residential locality.</p> <p>Council’s Traffic Engineers are also concerned with the number of vehicles and vehicle movements generated by the proposal on the local traffic network. These issues relate to the contribution to long traffic queues, the right turn out from the facility will result in delays within the basement car park, any vehicles parked on either side of Hemsworth Avenue will likely obstruct two-way traffic movements and parents that walk to the facility and require crossing from Hammers Road will cross the road between queued traffic which would obstruct their visibility to motorists.</p>

	Accordingly, the proposal cannot be considered for approval.
<p>C2 When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • the location and surrounding uses are compatible with the proposed development or use • the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards • there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed • the characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> - size of street frontage, lot configuration, dimensions and overall size - number of shared boundaries with residential properties - the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas • where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use • there are suitable drop off and pick up areas, and off and on street parking • the type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use • it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. 	<p>No</p> <p>The sites to the north, south, east and west are zoned R2 Low Density residential.</p> <p>The site is not known to be flood or bushfire prone or a landslip risk. The site is not located in a coastal zone.</p> <p>The application was submitted with a PSI which concluded that further investigations via a Detailed Site Investigation is required to delineate the distribution and concentrations of lead and to confirm the depth of fill. The DSI has not been submitted in accordance with the recommendations of the PSI.</p> <p>The development provides a 2m side setback to the western boundary. However, to mitigate impacts, to the property adjoining the site to the west, the development has been designed with extensive blank walls. These present as imposing structures when viewed from the neighbouring property, which is further exacerbated by the protrusion of the basement towards the front of the site by approximately 1.3m from the NGL.</p> <p>The overall size of the site as well as its location as a corner allotment cannot adequately accommodate a facility for 76 children. This is evidenced by the requirement to extend the outdoor play area beyond the secondary frontage requirements for developments in a low-density residential setting.</p> <p>Drop off and pick up are located within the basement. However, Council's Traffic Engineers are concerned that the number of vehicles generated by the development will result in adverse traffic and parking impacts, mainly with relation to extensive queueing on Hammers Road, the obstruction of the 2-way vehicle movement on Hemsworth Avenue and the safety of pedestrian crossing Hammers Road when traffic is queued.</p>
<p>C3 A child care facility should be located:</p> <ul style="list-style-type: none"> • near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship • near or within employment areas, town centres, business centres, shops • with access to public transport including rail, buses, ferries • in areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>Yes</p> <p>The site is located within proximity of the following:</p> <ul style="list-style-type: none"> - Parramatta Baptist church - Northmead Public School - Northmead Pre-school Kindergarten - Arthur Phillip Park - Public transport (bus stops) on Hammers Road.
<p>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> • proximity to: <ul style="list-style-type: none"> - heavy or hazardous industry, waste transfer depots or landfill sites - LPG tanks or service stations 	<p>Yes</p> <p>The site is not located within proximity hazardous uses, extractive industries, intensive agriculture or agricultural activities.</p>

<ul style="list-style-type: none"> - water cooling and water warming systems - odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses - extractive industries, intensive agriculture, agricultural spraying activities • any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 	
3.2 Local character, streetscape and the public domain interface	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> • contribute to the local area by being designed in character with the locality and existing streetscape • reflect the predominant form of surrounding land uses, particularly in low density residential areas • recognise predominant streetscape qualities, such as building form, scale, materials and colours • include design and architectural treatments that respond to and integrate with the existing streetscape • use landscaping to positively contribute to the streetscape and neighbouring amenity • integrate car parking into the building and site landscaping design in residential areas. 	<p>No</p> <p>The predominant form of the surrounding land uses is low density residential in nature and in 1 and 2 storey form. Parking is located within at-grade garages and provided with extensive soft landscaping.</p> <p>The proposed development, particularly when viewed from the corner of Hemsworth Avenue and Hammers Road presents as three-storey in nature. There is a lack of frontage landscaping due to the extension of the outdoor play areas on Hemsworth Avenue and the provision of ramping and driveway on Hammers Road. There is insufficient deep soil across the site as the soil depth cannot be achieved with the location of the basement extending beyond the building footprint. As a result, vegetation, and landscaping in keeping with the landscaped character of the locality cannot be achieved.</p> <p>The development also appears bulky in nature due to the provision of the first-floor outdoor play area which extends the length and depth of the development beyond that envisaged by the controls and is therefore uncharacteristic of the streetscape, particularly along Hemsworth Avenue and of the wider local character.</p> <p>DEAP has also stated that the building presents long unrelieved elevations and that the extensive glazed stairwell on the corner, along with the length of the façade on Hemsworth Avenue present the development as more commercial in nature which does not contribute to the low-density residential nature of the locality or the streetscape.</p> <p>Basement carparking is provided, however due to the topography of the site, there is a portion of the basement that extends approximately 1.3m from NGL, resulting in visual bulk from the street and the adjoining development.</p> <p>For these reasons, Council cannot support the application.</p>
<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • fencing to ensure safety for children entering and leaving the facility • windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community 	<p>No</p> <p>A clear path from the street frontage to the childcare centre's entry is provided.</p> <p>The proposed fencing and windows allow for surveillance of the street and for protection of the children within the facility. However, due to the extension of the outdoor play area to the frontage of Hemsworth Avenue, the proposed boundary fencing aligns directly with the</p>

<ul style="list-style-type: none"> • integrating existing and proposed landscaping with fencing. 	<p>street/footpath/public domain which does not allow for landscaping or transition between the public and private realms.</p>
<p>C7 On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the childcare facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p>N/A</p> <p>The development provides one entry and building.</p>
<p>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> • clearly defined street access, pedestrian paths and building entries • low fences and planting which delineate communal/private open space from adjoining public open space • minimal use of blank walls and high fences. 	<p>N/A</p> <p>The site does not adjoin a public park, open space or bushland.</p>
<p>C9 Front fences and walls within the front setback should be constructed of visually permeable materials and treatments.</p> <p>C10 High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.</p>	<p>No.</p> <p>The site has a dual frontage. The proposal does not provide fencing on Hammers Road. However, boundary/acoustic fencing abuts the public domain along Hemsworth Avenue which is not considered to be in keeping with the low-density nature, landscaped nature of the streetscape.</p> <p>The site does not adjoin a classified road.</p>
<p>3.3 Building orientation, envelope and design</p>	
<p>C11 Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> • ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> - facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties - placing play equipment away from common boundaries with residential properties - locating outdoor play areas away from residential dwellings and other sensitive uses <ul style="list-style-type: none"> • optimise solar access to internal and external play areas • avoid overshadowing of adjoining residential properties • minimise cut and fill • ensure buildings along the street frontage define the street by facing it • ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>No</p> <p>The outdoor play areas are located on the ground floor and the upper floor and is in the immediate vicinity of residential dwellings to the north-east and west. The outdoor play areas addresses both neighbouring properties. Despite the provision of acoustic barriers around the perimeter of the outdoor play areas, it results in additional imposing structures on the adjoining neighbours, adding to the perception of bulk and scale when viewed from the adjoining properties.</p> <p>It is noted that the information submitted with the application has not demonstrated that the outdoor or the indoor play areas will receive satisfactory solar access and ventilation.</p> <p>The solar access diagram to illustrate overshadowing impacts on the neighbouring properties show that the development to the north-east will be impacted by the proposal beyond what is expected for a permissible development. It is noted whilst another development could be accommodated closer to the north-eastern boundary (should the site be subdivided), a complying development would result in similar solar access impacts, but its density and amenity impacts are not to the extent of a 76 place childcare centre.</p> <p>It is noted that a portion of the ground floor outdoor play areas require stairs to access this area. Concern is raised that children and/or staff with accessibility limitations cannot utilise these areas and that this may also restrict or</p>

	become an impediment if the centre is required to be evacuated.
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • building height should be consistent with other buildings in the locality • building height should respond to the scale and character of the street • setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility • setbacks should provide adequate access for building maintenance • setbacks to the street should be consistent with the existing character. 	<p>No</p> <p>The proposal complies with the maximum height for the site. Despite this, the design of the development is bulky in appearance due to the unrelieved elevations and the outdoor play area accommodated on the first floor which is inconsistent with the local character of the area.</p> <p>The development provides setbacks from boundaries compliant with the numerical controls intended for low-density residential uses. Given the intensity of use of the proposal as a 76-place childcare centre, its amenity impacts exceed that is envisaged by developments that are low-density residential in nature. This is evident, by the extension of the outdoor play areas on the ground floor beyond the setbacks required for permissible developments on the site.</p>
<p>C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p> <p>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>No</p> <p>The development does not provide compliant secondary frontage setbacks from Hemsforth Avenue as the outdoor play area extends to the public domain.</p> <p>It is noted that whilst C14 refers to applying setbacks required for a dwelling house for childcare centres, this control envisages childcare centres of a one storey nature with all outdoor play areas located on the ground floor. The proposal being a 2-storey built form requires setbacks beyond what is required for a dwelling house to reduce the perception of bulk and scale on adjoining properties whilst protecting these properties from amenity impacts from the facility, particularly when outdoor play areas are located on the upper floors.</p>
<p>C15 The built form of the development should contribute to the character of the local area, including how it:</p> <ul style="list-style-type: none"> • respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage • contributes to the identity of the place • retains and reinforces existing built form and vegetation where significant • considers heritage within the local neighbourhood including identified heritage items and conservation areas • responds to its natural environment including local landscape setting and climate • contributes to the identity of place. 	<p>No. See comments from C12.</p>
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ol style="list-style-type: none"> 1. Located to allow ease of access, particularly for pedestrians; 2. Directly accessible from the street where possible; 3. Directly visible from the street frontage; 4. Easily monitored through natural or camera surveillance; 5. Not accessed through an outdoor play area; and 	<p>Yes</p> <p>A separate access is provided to the childcare centre and is visible from the street (Hammers Road).</p>

<p>6. In a mixed-use development, clearly defined and separate from entrances to other uses in the building.</p>	
<p>C17 Accessible design can be achieved by:</p> <ol style="list-style-type: none"> 1. Providing accessibility to and within the building in accordance with all relevant legislation; 2. Linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry; 3. Providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible; and 4. Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. <p>NOTE: The <i>National Construction Code</i>, the <i>Discrimination Disability Act 1992</i> and the <i>Disability (Access to Premises – Buildings) Standards 2010</i> set out the requirements for access to buildings for people with disabilities.</p>	<p>No</p> <p>Council’s Universal Access and Design Officer has reviewed the proposal and upon review, does not support the development in its current form. Accordingly, the proposal cannot be supported.</p>
<p>3.4 Landscaping</p>	
<p>C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • reflecting and reinforcing the local context • incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. <p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings • taking into account streetscape, local character and context when siting car parking areas within the front setback • using low level landscaping to soften and screen parking areas. 	<p>No</p> <p>Due to the number of car parking required for a 76-place childcare centre, the basement parking extends beyond the building footprint which reduces the opportunities for deep soil planting across the site. As a result, intense and significant vegetation cannot be retained or replaced.</p> <p>No</p> <p>The driveway design of the development as well as the ramping provided to enter the facility results in much of the street frontage along Hammers Road being occupied by hard surfaces and reduced landscaping. This is not in character with the streetscape along Hammers Road or Hemsworth Avenue.</p>
<p>3.5 Visual and acoustic privacy</p>	
<p>C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>N/A</p> <p>The proposal is not for a mixed-use development. The existing adjoining developments are one-storey in nature and will not overlook the facility.</p>
<p>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ol style="list-style-type: none"> 1. Appropriate site and building layout; 2. Suitably locating pathways, windows and doors; and 3. Permanent screening and landscape design. 	<p>No</p> <p>The use of highlight windows along the western elevation, acoustic fencing and boundary fencing restricts views into the indoor rooms. However, it appears that the acoustic treatment for the first-floor outdoor play area is to be constructed as glass balustrades and the lower half as an obscured material. Whilst this may restrict views of the children using this space from neighbouring properties,</p>

	<p>staff and visitors to the centre (ie, parents and other caregivers) can be viewed and view adjoining properties.</p> <p>Further, the external presentation of these elements is unsuitable on the streetscape, adjoining properties and exacerbates the bulk and scale. Accordingly, the proposal cannot be supported.</p>
<p>C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ol style="list-style-type: none"> 1. Appropriate site and building layout; 2. Suitable location of pathways, windows and doors; and 3. Landscape design and screening. 	<p>No</p> <p>Due to the 2 storey nature of the facility and the provision of outdoor play areas on the upper floor, it is likely that opportunities for overlooking will increase into adjoining properties, particularly of private open space areas.</p>
<p>C23 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ol style="list-style-type: none"> 1. Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence); and 2. Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	<p>No</p> <p>A maximum 2.2m barrier on NGL is to be provided along the north-eastern boundary and to a portion of the western boundary to the rear. A 1.8m barrier on NGL is to be located along a portion of the Hemsworth Avenue frontage where the outdoor play areas are located. On the first floor, a 1.4m barrier is to be located along the north-eastern half and a 1.6m barrier on the western half is to be provided.</p> <p>It is noted that the fencing style used on the Hemsworth Avenue frontage appears to be open, with gaps between the slats which is contrary to the design required for satisfactory noise attenuation. Further, should this fencing be modified to be solid in appearance to comply with the noise attenuation requirements, it would result in adverse impacts on the visual amenity of the streetscape.</p>
<p>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ol style="list-style-type: none"> 1. Identify an appropriate noise level for a child care facility located in residential and other zones; 2. Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use; and 3. Determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>Yes</p> <p>Council's Health (Acoustic) Officer has reviewed the proposal and the Acoustic Report submitted with the application and raised no objections. If Council had supported the application, conditions would have been imposed on the consent as recommended by Council's Health Officer.</p>
<p>3.6 Noise and air pollution</p>	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • creating physical separation between buildings and the noise source • orienting the facility perpendicular to the noise source and where possible buffered by other uses • using landscaping to reduce the perception of noise • limiting the number and size of openings facing noise sources • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits 	<p>No</p> <p>The proposal has located the cot room to address the street frontage on Hemsworth Avenue. A landscape buffer is provided between the cot room and the public domain. Concern is raised that if the landscaping is not maintained that this cot room, with an address to the street, cannot be conducive for its intended use.</p> <p>It is noted that the size of the fenestration to the cot room is appropriate in terms of presentation to the streetscape. As a result, this allows more acoustic, and vibration impacts to this room as well as direct views from the public domain.</p>

<ul style="list-style-type: none"> • locating cot rooms, sleeping areas and play areas away from external noise sources. <p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • on industrial zoned land • where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000 • along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007 • on a major or busy road • other land that is impacted by substantial external noise. 	<p>N/A.</p> <p>The site is not located on industrial land, subject to an ANEF contour, adjacent to a railway corridor or a major/busy road.</p>
<p>C27 Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p> <p>C28 A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines. The air quality assessment report should evaluate design considerations to minimise air pollution such as:</p> <ul style="list-style-type: none"> • creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from the major source of air pollution • using landscaping to act as a filter for air pollution generated by traffic and industry. Landscaping has the added benefit of improving aesthetics and minimising visual intrusion from an adjacent roadway • incorporating ventilation design into the design of the facility. 	<p>N/A</p> <p>The site is not located on a major road or within proximity to industrial development.</p>
<p>3.7 Hours of operation</p>	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>Yes</p> <p>The proposed hours of operation complies.</p> <p>Monday to Friday: 7AM to 7PM</p>
<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>Yes</p> <p>The proposed hours of operation are compliant with the provisions of this Chapter.</p>
<p>3.8 Traffic, parking and pedestrian circulation</p>	
<p>C31 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p>	<p>Yes</p> <p>Minimum car parking rates achieved.</p>

<p>C32 In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p>N/A</p> <p>The development is not for a mixed-use building.</p>
<p>C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ol style="list-style-type: none"> 1.The amenity of the surrounding area will not be affected; and 2. There will be no impacts on the safe operation of the surrounding road network. 	<p>No</p> <p>Council's Traffic Engineer does not support the proposal as previously mentioned on the grounds that it will result in adverse traffic impacts on the locality.</p>
<p>C37 Mixed use developments should include:</p> <ol style="list-style-type: none"> 1. Driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks; 2. Drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site; and 3. Parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility. 	<p>N/A</p> <p>The proposal is not for a mixed-use development.</p>
<p>Part 4 – Applying the National Regulations to development proposals</p>	
<p>4.1 Indoor space requirements</p>	
<p>Regulation 107 Education and Care Services National Regulations</p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p>	<p>Yes</p> <p>Required – 247m² Provided - 248m²</p>
<p>Verandahs as indoor space</p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1).</p> <p>Storage</p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ol style="list-style-type: none"> 1. A minimum of 0.3m³ per child of external storage space; and 2. A minimum of 0.2m³ per child of internal storage space. <p>Storage of items such as prams, bikes and scooters should be located adjacent to the building entrance.</p>	<p>N/A</p> <p>Yes</p> <p>Required: Min. internal: 15.2m³ Min. external: 22.8m³</p> <p>Provided: Internal: 18m³ External: 25m³</p> <p>No.</p> <p>A pram parking area has not been provided.</p>
<p>4.2 Laundry and hygiene facilities</p>	

<p>Regulation 106 Education and Care Services National Regulations</p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	<p>Yes</p> <p>A laundry facility is proposed on the first floor.</p>
<p>4.3 Toilet and hygiene facilities</p>	
<p>Regulation 109 Education and Care Services National Regulations</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the <i>National Construction Code</i>.</p>	<p>No</p> <p>Detailed Elevation/section plans of the toilet and hygiene facilities is to be submitted with the application.</p>
<p>4.4 Ventilation and natural light</p>	
<p>Regulation 110 Education and Care Services National Regulations</p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p>	<p>No, insufficient information</p> <p>The submitted architectural plans do not demonstrate the amount of natural light and ventilation achieved for all indoor play areas, particularly as there is a lack of fenestrations and openings along the side elevations. Further, due to the topography of the site to the rear as well as the cantilevered first floor outdoor play area, it is unclear / or has not been demonstrated that adequate solar access is achieved across the ground floor outdoor play area.</p>
<p>4.5 Administrative space</p>	
<p>Regulation 111 Education and Care Services National Regulations</p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Yes</p> <p>A meeting room is provided within the facility for the purposes of conducting the administrative functions of the service and consultations.</p>
<p>4.6 Nappy change facilities</p>	
<p>Regulation 112 Education and Care Services National Regulations</p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i>.</p>	<p>Yes</p> <p>A nappy change facility/room is provided on the ground floor and straddles both ground floor indoor play rooms. An additional nappy change facility/room is provided on the first floor.</p>
<p>4.7 Premises designed to facilitate supervision</p>	
<p>Regulation 115 Education and Care Services National Regulations</p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i>.</p>	<p>No, insufficient information</p> <p>Details of the passive internal windows proposed have been submitted with the application.</p>

4.8 Emergency and evacuation procedures	
<p>Regulations 97 and 168 Education and Care Services National Regulations</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ol style="list-style-type: none"> 1. Instructions for what must be done in the event of an emergency; 2. An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and 3. A risk assessment to identify potential emergencies that are relevant to the service. 	<p>Yes</p> <p>An evacuation management plan has been submitted with the application as well as an emergency and evacuation floor plan.</p>
4.9 Outdoor space requirements	
<p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ol style="list-style-type: none"> 1. Pathway or thoroughfare, except where used by children as part of the education and care program; 2. Car parking area; 3. Storage shed or other storage area; 4. Laundry; and 5. Other space that is not suitable for children. <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children's play (refer to Figures 9 and 10).</p>	<p>No</p> <p>Number of Children: 76 Minimum Required: 532m² Proposed: 498m²</p>
4.10 Natural environment	
<p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p>No, insufficient information received.</p> <p>Due to the multi-storey nature of the development and that the basement encroaches beyond the building footprint, the proposal has not incorporated natural play elements such as grass instead of turf to ensure the best learning and development outcomes are achieved.</p> <p>Further, due to the topography of the site to the rear as well as the cantilevered nature of the first-floor outdoor play area, the proposal has not demonstrated that the ground floor outdoor play area will receive adequate solar access. For this reason, Council cannot support the proposal.</p>
4.11 Shade	
<p>Regulation 114 Education and Care Services National Regulations</p> <p>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.</p>	<p>No, insufficient information</p> <p>Whilst shading for the first floor outdoor play area has been indicated on the plans, its design, dimension, and material used has not been provided. Accordingly, the proposal cannot be considered for support.</p>
4.12 Fencing	
<p>Regulation 104 Education and Care Services National Regulations</p>	<p>No, insufficient information</p>

Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the <i>National Construction Code</i> .	Fencing details have not been provided in accordance with the NCC.
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4.13 Soil assessment

Regulation 25 Education and Care Services National Regulations

Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:

1. A soil assessment for the site of the proposed education and care service premises;
2. If a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken; and
3. A statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.

No

See discussion under **C2** of the Guidelines.

Relevant regulation not addressed in Child Care Planning Guideline August 2021

Educator to child ratios-centre based services

Regulation 123 Education and Care Services National Regulations

The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—

- (a) for children from birth to 24 months of age—1 educator to 4 children;
- (b) for children over 24 months and less than 36 months of age—1 educator to 5 children;
- (c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;
- (d) for children over preschool age, 1 educator to 15 children.

Age Group	No. of Children	Minimum Educators Required
0 – 2 years	20	5
2 – 3 years	26	5.2 (6)
3+ years	30	2.7 (3)

Regulation 122 of *Education and Care Services National Regulations* states 'An educator cannot be included in calculating the educator to child ratio of a centre-based service unless the educator is working directly with children at the service'.

If Council had supported the application, the applicant would be required to provide the minimum number of educators and support staff.

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 Landscape Officer has requested additional information to allow the detailed assessment of the proposal. However, this information has not been received and as such, the impacts of the tree removal as well as proposed on-site landscaping cannot be assessed.

It is considered that the impacts of the proposed removal 14 trees on the site cannot be ascertained as Council has insufficient information. Therefore, the impacts on the ecological, heritage, aesthetic and cultural significance of the area cannot be ascertained. As such, the proposal is recommended for refusal.

7.5 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 10 SYDNEY HARBOUR CATCHMENT

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) could have been managed by conditions of consent.

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

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

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

Based on the information collected and available during this investigation, the following recommendations have been made:

- *A Detailed Site Investigation (DSI) to delineate the distribution and concentrations of Lead and to confirm the depth of fill. Based on the outcome of the DSI, the soil may be managed under a Remedial Action Plan (RAP);*
- *All structures onsite should have a Hazardous Materials Survey (HMS) conducted by a qualified occupational hygienist and/or environmental consultant for the site prior to any demolition or renovation works in accordance with relevant Australian Standards, SafeWork NSW codes of practice and any other applicable requirements; If ACM is confirmed by the HMS, then the following will be required:*
 - *An Asbestos Removal Management Plan (ARMP);*
 - *The removal works will require a Class B licensed removal contractor;*
 - *Reporting on transport and management of asbestos waste in accordance with EPA Part 7 of the Protection of the Environment Waste Regulation 2017; and*
 - *A clearance inspection and clearance certificate by a will be required post demolition by a licensed asbestos assessor under clauses 473 & 474 of NSW Work Health and Safety Regulations 2017*

It is noted that a DSI and/or a RAP did not accompany the application. Consequently, Council's Environmental Health Officer has not been able to complete the site assessment with regards to contamination. Given that the requested information remains outstanding and that the concentrations of lead cannot be ascertained, Council cannot consider the application for approval and the site is therefore unsuitable for the proposed use as a Childcare Centre.

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

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

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

8. Parramatta Local Environmental Plan 2023

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

Clause 1.2 Aims of the Plan

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 protect and enhance the identity, diversity and viability of Parramatta City Centre and recognise its role in the Central River City of the Six Cities Region,*
- (b) *to create an integrated, balanced and sustainable environment that contributes to environmental, economic, social and physical wellbeing,*
- (c) *to identify, conserve and promote the City of Parramatta’s natural and cultural heritage,*
- (d) *to protect and enhance the natural environment, including urban tree canopy cover and areas of remnant bushland,*
- (e) *to ensure development occurs in a way that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependent ecosystems,*
- (f) *to encourage ecologically sustainable development,*
- (g) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
- (h) *to improve public access along waterways if the access does not adversely impact the natural value of the waterways,*
- (i) *to improve public access to, and within, the City of Parramatta and facilitate the use of public transport, walking and cycling,*
- (j) *to encourage a range of development to meet the needs of existing and future residents, workers and visitors,*
- (k) *to enhance the amenity and characteristics of established residential areas,*
- (l) *to retain the predominant role of industrial areas,*
- (m) *to ensure development does not detract from the economic viability of commercial centres,*
- (n) *to ensure development does not detract from the operation of local or regional road systems.*

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

Clause 2.3 Zone objectives and Land Use Table

The aims and objectives for the 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 low density residential character of the area.*
- *To ensure non-residential land uses are carried out in a way that minimises impacts on the amenity of a low density residential environment.*
- *To provide a range of community facilities that serve the needs of people who live in, work in and visit the area.*
- *To protect and enhance tree canopy, existing vegetation and other natural features.*

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

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings Allowable: Max. 9m	Complies Proposed: 8.73m
Cl. 4.4 Floor space ratio Allowable: 0.5:1 (max. 512m ²)	Complies Proposed: 0.5:1 (508.46m ²)
Part 5 Miscellaneous provisions	
Cl. 5.1A Development on land intended to be acquired for public purposes	The subject site is not subject to land reservation acquisition.
Cl. 5.4 Controls relating to miscellaneous permissible uses	These provisions do not apply to the development proposal.
Cl. 5.6 Architectural roof features	An architectural roof feature is not proposed.
Cl. 5.7 Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.
Cl. 5.10 Heritage conservation	The subject site is not a heritage listed item or is located with proximity to heritage listed items of a conservation area.
Cl. 5.21 Flood Planning	The site is not flood prone.
Part 6 Additional local provisions	
Cl. 6.1 Acid sulfate soils	Yes, the site is identified as containing Class 5 Acid Sulfate Soil. An Acid Sulphate Soils Management Plan is not required to be prepared in this instance.
Cl. 6.2 Earthworks	Extensive excavation is required to accommodate a basement. Had the application been recommended for approval, conditions of consent would have been imposed to ensure appropriate management of earthworks is undertaken.
Cl. 6.4 Biodiversity protection	The site is not identified on this map.
Cl. 6.5 Stormwater Management	Council's Development Engineer has reviewed the proposal and raised no objection to the development on the basis of stormwater management, subject to conditions of consent.
Cl. 6.8 Landslide risk	The site is not identified on this map.
Cl.6.13 Design Excellence	The site is not identified on these maps.

9. The Parramatta Development Control Plan 2011

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

Development Control	Comment	Comply
Part 2 Site Planning		
2.4.1 Views and Vistas	The site is not identified as containing significant views.	Yes

2.4.2 Water Management	Refer to assessment under PLEP 2023.	Yes
2.4.3 Soil Management	Adequate sediment and erosion control measures are proposed as part of this development as are supporting conditions.	Yes
2.4.4 Land Contamination	Refer to Section 7.6 of this report for a detailed discussion.	No
2.4.5 Air Quality	Were this application recommended for approval, standard conditions would have been imposed to ensure that the potential for increased air pollution is minimised during construction.	Yes
2.4.6 Development on Sloping Land	The topography of the site to the rear requires the ground floor outdoor play area to be stepped requiring stairs to each level for access. This is not considered appropriate in terms of equal access to both children and staff that may have reduced accessibility.	No
2.4.7 Biodiversity	Council's Landscape Officer has raised concerns with regards to the proposal in particular the details on the landscape plan. As additional information has not been provided to allow Council a complete assessment of the proposal, it is not considered that the development will not result in unacceptable loss of amenity values.	No
2.4.8 Public Domain	Due to the number of children proposed for the childcare centre, the outdoor play area on the ground floor extends beyond the required frontage setbacks (on Hemsworth Avenue) and directly abuts the public domain. This does not allow appropriate transition between private and public space, nor does it provide an opportunity to appropriately address the public domain. Further, the width of the driveway and the ramping required to allow equitable access to the facility from the street dominates the streetscape and results in extensive hard areas, limited landscaping connecting the site to the public domain.	No
Part 3 Development Principles		
3.2.1 Building Form and Massing	<p>The current character of the neighbourhood is a predominantly low-density residential in scale and form. These sites are also provided with ample on-site and perimeter landscaping.</p> <p>Whilst the site can accommodate a childcare centre in some form, the number of children it is proposing to accommodate has resulted in a bulky development, with unrelenting elevations, further exacerbated by the provision of a first floor outdoor play area which extends beyond the location of neighbouring private open space areas.</p> <p>Accordingly, the building form and mass is incompatible with the character and spatial characteristics of the locality.</p>	No
3.2.2 Building Façade and Articulation	The proposal does not incorporate adequate articulation, materials, or fenestrations in the composition of the facades and therefore does not break up the visual scale and bulk of the development or the perception of building mass.	No
3.2.3 Roof Design	The roof design appropriately responds to contemporary design.	Yes
3.2.5 Streetscape	<p>The proposed development is incompatible with the existing and future character of the locality.</p> <p>The presentation of the development on Hammers Road is predominantly occupied by ramps and the driveway. The streetscape view along Hemsworth Street is of a 1.8m acoustic fence with a very some landscape buffer.</p> <p>As mentioned throughout this report, the extension of the first floor outdoor play area results in a consistent development mass along Hemsworth Avenue which exacerbates the bulk and scale of the development.</p>	No

	The overall presentation on the streetscape is of a built form that is too dense for the site and is inconsiderate of its context particularly the low-scale residential developments adjoining the site. In this regard, the proposal does not positively contribute to the streetscape.	
3.2.6 Fences	See Assessment under C23 of the SEPP (Transport and Infrastructure) 2021 – Chapter 3 (Section 7.3 of this Report).	No
3.1.3: Building Height Maximum: 9m / 2 storeys	Proposed: 8.73m / 2 storeys	Yes
3.1.3 Floor Space Ratio	Refer to assessment under PLEP 2023.	Yes
3.1.3: Minimum Site Frontage	Refer to Part 5 of this table	N/A
3.13: Front Setback Primary: Between 5m – 9m Secondary: Min. 3m	Hammers Road – Min. 5.7 Hemsworth Avenue – Min. 3m to building. Nil to outdoor play area.	No
3.13: Side Setback	Refer to Part 5 of this table	No
3.13: Rear Setback Min. 15% of length of the site (Min. 16.15m)	Provided – 18.5m to the rear elevation of the building. Min. 8m to the outdoor play area structure on the first floor. Notwithstanding the numerical compliance of the development to the rear elevation of the building, it should also be applicable to the first-floor outdoor play area given that this results in additional and adverse amenity impacts from the utility of this space to adjoining developments.	No
3.1.3: Landscaped Area Min. 40% of the site (Min. 409.6m ²)	Proposed – 409.6m ² (40%)	Yes
3.1.3: Deep Soil Min. 30% of the site with 4m x 4m dimensions (Min. 307.2m ²)	Proposed – 111m ² (10%) As the basement has not been designed to be within the building footprint, the amount of deep soil zones has on the site are limited.	No
3.3.3 Visual and Acoustic Privacy	Refer to Section 7.3.1 of this report for further discussion regarding the childcare centre.	No
3.3.4 Acoustic Amenity	No major roads or railway lines adjoin the site.	N/A
3.3.5 Solar Access and Cross Ventilation	Refer to Section 7.3.1 of this report for further discussion regarding the childcare centre.	No
3.3.6 Water Sensitive Urban Design	Council's Development Engineer has reviewed the proposal and raises no objections with regards to the WSUD of the development, subject to conditions of consent.	Yes
3.3.7 Waste Management	Council's Waste Officer reviewed the proposal and upon review, raised no objections to the development. If the application had been recommended for approval, the recommended conditions would have been imposed on the consent.	Yes
3.4.1 Culture and Public Art	An arts plan is not required as the application does not have a CIV of more than \$5,000,000.00 and is not located within: - A local town centre - Land zoned B2 Local Centre or B4 Mixed Use - Land with a site area greater than 5000m ²	N/A
3.4.2 Access for People with Disabilities	Council's Universal Access and Design Officer raised concerns with regards to accessibility throughout the development. These issues have not been satisfactorily addressed. Accordingly, Council cannot consider the proposal for approval.	No
3.4.3 Amenities in Buildings Available to the Public	The proposal is not a public building.	N/A
3.4.4 Safety and Security	Refer to Section 7.3.1 for discussion regarding the childcare centre.	Yes
3.4.5 Housing Diversity and Choice	The proposal does not contain a residential component.	N/A
3.5 Heritage	Refer to PLEP 2023 section of this report above.	Yes
3.6.1 Sustainable Transport	As the development is for a childcare centre a car share spaces is not required.	N/A
3.6.2 Parking and Vehicular Access	Refer to Part 5 of this table.	Yes

3.6.3 Accessibility and Connectivity	Council's Universal Access and Design Officer reviewed the proposal and raised concerns with regards to accessibility throughout the development. Accordingly, the proposal cannot be considered for approval.	No
3.7.1 Residential Subdivision - general	The application does not propose a subdivision of the site.	N/A
3.7.2 Site Consolidation and Development on Isolated Sites	The proposal does not result in the isolation of any adjoining properties.	N/A
Part 5 Other Provisions		
5.2 Child Care Centres		
5.2.1 Development to which this section of the DCP applies	The proposed development is for a new childcare centre.	Yes
5.2.3.1 Site Selection	This control is not relevant in accordance with the requirements of Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.	N/A
5.2.3.2 Child Care Centres in Residential Zones	The proposal complies with the relevant FSR, height and the primary front setbacks stipulated within this DCP. However, the outdoor play area on the ground floor encroaches the secondary setbacks required for developments located on a corner allotment.	No
Except where provided by this Section, the childcare centre shall comply with the relevant height, floor space ratio, minimum frontage, minimum street and side setback and building envelope controls for the respective Residential zones contained in both the relevant environmental planning instrument applying to the land and any other section applying to this land.	Site requirements such as area or minimum frontage under the DCP have not been taken into consideration as these are non-discretionary development standards outlined within Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.	
The minimum side setback for a new child care centre is 2 metres, except where the proposal involves conversion of an existing dwelling house then the setbacks shall comply with the requirements of Part 3 of this DCP.	Whilst the proposal provides a 2m side setback to the western boundary, this control envisages childcare centre facilities as being of a one-storey nature where outdoor play areas are located on the ground floor. Elsewhere in the DCP also states that any multi storey childcare centres should only locate the childcare centre component on the ground floor and storage and meeting spaces be located on the upper floors. Given that the proposal is 2 storeys in height and contains outdoor play areas on the upper storey, a minimum 2m side setback is inappropriate in ameliorating amenity impacts to adjoining properties whilst ensuring the childcare facility fosters appropriate solar access and ventilation. Despite the compliance with this numerical control, the proposal as a 2-storey facility is not considered to be in the spirit of the control.	No
On sites zoned Residential:		
<ul style="list-style-type: none"> The child care centre building is to be designed so as to appear as a dwelling house when viewed from the street. However, this does not preclude the use of 'U' shaped or 'L' shaped buildings for the purpose of minimising acoustic impacts on neighbouring properties as described in the section on Acoustic and Visual Privacy. The front setback area may only be used for access, parking and landscaping purposes, shall not be 	The childcare centre is not designed in a "U" or "L" shape. As a result, the outdoor play areas, on the ground floor and first floor address adjoining properties to the north-east and west. The development therefore requires extensive acoustic barriers around the perimeter of the site of a maximum 2.2m and a 1.8m solid fence along the Hemsworth Avenue frontage which directly abuts the public domain. Extensive acoustic fencing is also required around the perimeter of the upper floor outdoor play area. The development also limits fenestrations along the western elevation to attenuate noise and restrict view to internal play areas. However, as a result of these measures, the proposal is designed and presents as a bulky development with	No

<p>used as an outdoor play space and shall not be included in calculations of unencumbered outdoor space</p> <ul style="list-style-type: none"> • Council encourages the use of single storey buildings in Residential zones for the purposes of child care centres for reasons of safety and access. In the case of a building that is higher than single storey, the above ground levels of the building should only be used for the purposes of storage and staff facilities. 	<p>unrelenting / unrelieved elevations which is a poor design outcome and does not contribute to the local context.</p> <p>The secondary setback along Hemsworth Avenue contains outdoor play areas. If this area is not included in the calculation of outdoor play area, this further reduces the outdoor play area compliance by 32m².</p> <p>The development is a 2 storey building that locates childcare components such as indoor and outdoor play areas on the upper floors. Accordingly, the proposal cannot be supported.</p>	<p>No</p> <p>No</p>
<p>Minimum indoor and outdoor space and maximum number of child care places</p> <p>Unencumbered space to be provided per child care place shall comply with the requirements of the Regulation. At the time this DCP was made the Regulation required a minimum of 3.25 square metres of indoor unencumbered space per place and a minimum of 7 square metres per place for outdoor unencumbered space.</p>	<p>See Section 7.3 of this report for compliance.</p>	<p>No</p>
<p>The maximum number of child care places to be provided in any child care centre in a Residential zone is 40. Council will only permit a child care centre in a Residential zone with more than 40 places where:</p> <ul style="list-style-type: none"> • A minimum of 33% of the places are provided for children under 2 years of age; and • Best practice standards of both indoor and outdoor unencumbered space is to be provided. 	<p>Site requirements such as the number of children under the DCP have not been taken into consideration as these are non-discretionary development standards outlined within Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.</p>	<p>N/A</p>
<p>Hours of operation</p> <p>Hours of operation will be generally limited to between 7am and 7pm Monday to Friday.</p>	<p>The proposal complies. Notwithstanding, this control has been taken into consideration in accordance with the requirements of Clause 3.26 of SEPP (Transport and Infrastructure) Chapter 3 – Educational Establishments and Childcare Facilities.</p>	<p>Yes</p>
<p>Landscaping</p> <p>A landscape buffer with a minimum width of 1 metre shall be provided along the side and rear boundaries of the development. A landscaping setback abutting the street frontage with a minimum width of 2 metres shall be provided.</p>	<p>A landscape buffer of 1m is provided along the side and rear boundaries. Whilst some landscaping is provided along the Hammers Road frontage, the Hemsworth Avenue frontage is not provided with a continuous landscaped setback due to the encroachment of the outdoor play area into this area.</p>	<p>Yes</p>
<p>5.2.3.4 Access and Parking</p>	<p>Whilst there is adequate parking which is compliant with the parking rates outlined elsewhere in this report, Council's Traffic Engineer raised a concern with regards to impact of the proposal on the local traffic network. This is a consequence of the density</p>	<p>No</p>

	of the development and the number of vehicles required by the proposal. As such, Council cannot support the application.	
<p>5.2.3.5 Acoustic and Visual Privacy</p> <p>Where feasible, designs should be based on a ‘U’ shaped or ‘L’ shaped layout for the buildings, with external activity areas positioned such that the building structures act as a noise barrier (refer to Figures A10.2 and A10.3 in Appendix A10). If one of these layouts is not adopted, the applicant must provide a valid justification to Council as to why an alternative approach is more suitable or necessary.</p> <p>Orienting the building and outdoor play spaces having regard to impacts on neighbours (for example, locating play areas away from neighbouring bedrooms).</p> <p>Maximising the separation between the active outdoor play area (as opposed to passive activities such as sand pits, painting, storytelling etc.) and the façade of any neighbouring premises.</p> <p>Ensuring openable windows at the child care centre and external play areas do not have a direct line of sight to neighbouring sensitive uses</p> <p>Locate pedestrian access ways and ramps away from neighbouring sensitive premises where practicable.</p> <p>Acceptable Acoustic Management Measures</p> <p>The preferred approach to acoustic management is through provision of physical measures such as barriers, enclosures, changes to glazing and provision of air conditioning. Management measures that must be implemented and monitored by staff and parents are not considered appropriate for a well-designed child care centre.</p> <p>Acceptable acoustic mitigation solutions include, but are not necessarily restricted to, the following:</p> <ul style="list-style-type: none"> Erection of noise barriers, which may include fencing types and other barriers that 	<p>A satisfactory justification for the proposed design approach which negates the use of a U or L shaped building envelope has not been submitted to Council.</p> <p>As noted above, the outdoor play areas are located on the upper floors which have an address to the adjoining properties. The proposal provides acoustic barriers which results in a poor design outcome. The extent of the proposal, with its bulky form also adversely impacts on adjoining developments that would not otherwise be experienced because of the intensity of the proposed development.</p> <p>Windows and outdoor play areas address neighbouring properties.</p> <p>The first floor outdoor play area will allow views to neighbouring properties.</p> <p>The driveway is located along the western boundary which adjoins a residential development. Further, stair cases to access the 2 levels of ground floor outdoor play area is located along the rear boundary which adjoins another residential premises.</p> <p>The childcare centre does not comply in this instance as stated above.</p> <p>Acoustic barriers are proposed. The incorporation of the barriers to the design of the built form is not considered to be acceptable on the streetscape presentation.</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>

<p>minimise noise transmission, to a maximum height of 2m for a flat site. Noise barriers in excess of 2m in height will be considered for sloping sites (eg. where a barrier is positioned on a retaining wall due to changes in levels).</p> <ul style="list-style-type: none"> The majority of internal surfaces are to utilise absorptive materials as opposed to reflective to reduce the potential for reverberant fields to increase noise emissions and reduce speech intelligibility. Provision of mechanical ventilation and fixed windows (at the child care centre or adjacent receptors) where windows and doors must remain closed to achieve the appropriate noise criteria. <p>The following approaches are not considered appropriate for management of noise emissions from child care centre activities:</p> <ul style="list-style-type: none"> Restricting the number of children utilising external play areas at any one time. Restricting the time periods and/or times of day that children are allowed to use external play areas. Staging of outdoor activities to reduce the number of children playing outdoors at any one time. 	<p>The proposal does not incorporate this to the built form.</p> <p>The details of windows and how they are operated has not been provided with the application.</p> <p>The Acoustic Report recommends the restriction on the number of children to use the outdoor play areas both on the ground and first floor. This is not considered to be acceptable as it cannot be regulated and may not be appropriate for the facilities program.</p>	<p>N/A</p> <p>No</p> <p>No</p>
<p>5.2.3.6 Indoor Areas</p>	<p>Refer to Section 7.3 of this Report.</p>	<p>Yes</p>
<p>5.2.3.7 Outdoor Areas</p>	<p>Refer to Section 7.3 of this Report.</p>	<p>No</p>

10. Development Contributions

As this Development Application was lodged on 5 June 2023, the City of Parramatta (Outside of Parramatta) CBD Contributions Plan 2021 applies to the land. If the application had been recommended for approval, a standard condition of consent would have been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

11. Bonds

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

12. EP&A Regulation 2021

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

13. The likely impacts of the development

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

14. Suitability of the Site

As stated throughout this report, a childcare centre is unsuitable on the subject site due to its proposed density. Whilst the built form has been designed to protect adjoining properties from adverse amenity impacts, this has resulted in a poor design outcome for the streetscape and when viewed from adjoining properties.

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

The accessibility of the site, landscaping throughout the site and traffic impacts have not been adequately addressed to ensure that it does result in adverse impact on the proposed development.

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

15. Public Consultation

The application was notified and advertised in accordance with the City of Parramatta Consolidated Notification Procedure.

The advertisement ran for a 21-day period between 13 June and 4 July 2023. Twenty-six (26) unique submissions were received during this notification period.

The issues raised within the submissions are discussed in the table below.

Issue	Response
Traffic	Council's Traffic Engineer does not currently support the application as it is considered to result in adverse traffic impacts on the locality. These issues include queueing along Hammers Road, the restriction of a two-way vehicle movement on Hemsworth Avenue if demand for on-street parking increases due to the facility and safety of pedestrians crossing Hammers Road through queueing vehicles.
Cumulative impact of childcare centres in the area	Council acknowledges that 2 other childcare centres are located within 300m and 400m of the current proposal. Section 3.26 of the SEPP (Transport & Infrastructure) 2021 does not allow Council to refuse an application with regards to the location of the childcare facility in relation to an existing or proposed childcare facility.
Too many children proposed	The assessment report states that the proposal for a 76-place childcare centre is unsuitable for the site as it results in a design and development form that is of a bulk and scale not envisaged on the site. Further, the number of vehicles required for a 76-place childcare centre results in adverse impacts on the local traffic network.
Noise	Due to the number of children proposed, play areas must encroach on setbacks and building separation requirements. Whilst extensive acoustic barriers are also proposed to attenuate these impacts, it further impacts on streetscape presentation and bulk and scale.
Waste	The application was lodged with a Waste Management Plan and a bin room is provided within the basement. Council's Waste Officer has reviewed the on-going waste management of the proposal and raised no objections in this regard, subject to conditions of consent.

Dust	Had the application been recommended for approval, standard conditions would have been imposed to manage any impacts during the construction and on-going use with relation to dust.
Childcare centres are commercial in nature	Childcare centres are separately defined from a commercial premises pursuant to PLEP 2023. A childcare centre is permissible on the subject site.
Local Character	For the reasons outlined in the assessment report, the development as proposed is not in keeping with the local character.
Privacy	The assessment report acknowledges that the design of the development with the provision of a first storey outdoor play area will increase overlooking impacts to adjoining developments.
Heritage impact of the demolition of the existing building	The existing dwelling on the subject site is not identified as a heritage item or with any significant heritage value.
Infrastructure	The development complies with the maximum FSR for the site. Its compliance was contemplated by the local planning instruments which also considers whether these developments, if constructed could be appropriately serviced, either by current or planned infrastructure. Had the application been supported, a standard condition of consent would have been imposed requiring the payment of contribution fees which would contribute to any planned infrastructure within the LGA.
Social Impacts	The application was reviewed by Council's Social Impact Officer and upon review did not consider the current application to be supportable for reasons stated throughout this report.
Attract unsuitable persons to the area	There is no correlation between childcare centres and the unsuitable persons/characters it may potentially attract.
Hours of operation	The proposed hours of operation are compliant with the requirements under the relevant SEPP.
Use of larger trees to replace removal of existing trees	Council's Landscape Officer has requested amendments to the landscape plan that requires smaller scale trees to be accommodated on the site. This amended information has not been submitted and therefore a complete assessment of the impacts with regards to landscaping and tree removal cannot be completed.
Solar Access	The development will result in additional solar access to adjoining developments that is not anticipated by other permissible developments that are of low-density and scale in nature.

16. Public interest

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

17. Conclusion

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

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

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

18. Recommendation

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

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **refuse** development consent to DA/314/2023 for the Demolition, tree removal and construction of a 76-place childcare centre with basement parking for the following reasons:
1. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 3 Educational Establishments:
 - a) Clause 3.22 – Concurrences for certain development. The proposal does not comply with the minimum requirements for unencumbered outdoor play areas for a 76 place childcare centre.
 - b) Clause 3.26 – Non-discretionary development standards does not provide the minimum unencumbered outdoor play areas for a 76 place childcare centre.
 - 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 3.5 Visual and acoustic privacy
 - h) Childcare Planning Guidelines Part 3.6 Noise and Air Pollution
 - i) Childcare Planning Guidelines Part 3.8 Traffic, Parking and Pedestrian Circulation
 - j) Education and Care Services National Regulations Part 4.1 Indoor space requirements (storage areas)
 - k) Education and Care Services National Regulations Part 4.3 Toilet and hygiene facilities
 - l) Education and Care Services National Regulations Part 4.4 Ventilation and natural light
 - m) Education and Care Services National Regulations Part 4.6 Nappy change facilities
 - n) Education and Care Services National Regulations Part 4.7 Premises designed to facilitate supervision
 - o) Education and Care Services National Regulations Part 4.9 Outdoor space requirements
 - p) Education and Care Services National Regulations Part 4.10 Natural environment
 - q) Education and Care Services National Regulations Part 4.11 Shade
 - r) Education and Care Services National Regulations Part 4.12 Fencing
 - s) Education and Care Services National Regulations Part 4 4.13 Soil assessment
 2. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas:
 - a) Clause 2.1- The proposal does not meet the aims of the Chapter as it does not provide a landscape plan that demonstrates the protection and preservation amenity of non-rural areas through preservation of trees and other vegetation.
 3. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land:
 - b) Clause 4.6 Contamination and remediation to be considered in determining development application
 4. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Local Environmental Plan 2023:
 - a) Clause 2.1 – the development is inconsistent with the aims of Parramatta Local Environmental Plan 2023
 - b) Clause 2.3 - the development is inconsistent with the zone objectives of the R2 Low Density Residential zone
 5. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Development Control Plan 2011:
 - a) Section 2.4.4 Land Contamination
 - b) Section 2.4.6 Development on Sloping Land
 - c) Section 2.4.7 Biodiversity
 - d) Section 2.4.8 Public Domain
 - e) Section 3.2.1 Building Form and Massing
 - f) Section 3.2.2 Building Façade and Articulation
 - g) Section 3.2.5 Streetscape
 - h) Section 3.2.6 Fences
 - i) Section 3.1.3 Front Setback
 - j) Section 3.1.3 Side Setback

- k) Section 3.1.3 Rear Setback
- l) Section 3.1.3: Deep Soil
- m) Section 3.3.3 Visual and Acoustic Privacy
- n) Section 3.3.5 Solar Access and Cross Ventilation
- o) Section 3.4.2 Access for People with Disabilities
- p) Section 3.6.3 Accessibility and Connectivity
- q) Section 5.2.3.2 Child Care Centres - Child Care Centres in Residential Zones
- r) Section 5.2.3.4 Child Care Centres – Access and Parking
- s) Section 5.2.3.5 Child Care Centres – Acoustic and Visual Privacy
- t) Section 5.2.3.7 Child Care Centres – Outdoor Areas

- 6. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for built environment and suitability of the site.
- 7. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts generated by the development due to non-compliances with the applicable planning controls is not beneficial for the local community and as such, is not in the wider public interest.

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