



<b>City of Parramatta</b>	
File No:	DA/7/2023

## SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

<b>DA No:</b>	DA/7/2023
<b>Subject Property:</b>	Lots 599/600 DP 36700, 7 Yates Avenue, DUNDAS VALLEY NSW 2117
<b>Proposal:</b>	Amalgamation of two separate land parcels, tree removal, demolition of existing structures and construction of a two storey 83 place centre-based childcare facility with 22 parking spaces on the lower ground floor.
<b>Date of receipt:</b>	9 January 2023
<b>Applicant:</b>	Baini Design Pty Ltd
<b>Owner:</b>	M Group Pty Ltd
<b>Property owned by a Council employee or Councillor:</b>	The site is not known to be owned by a Council employee or Councillor
<b>Political donations/gifts disclosed:</b>	None disclosed on the application form
<b>Submissions received:</b>	Twenty-seven (27) unique submissions
<b>Conciliation Conference Held:</b>	No
<b>Recommendation:</b>	<b>Refusal</b>
<b>Assessment Officer:</b>	Najeeb Kobeissi

### Legislative Requirements

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

## 1. Executive Summary

The subject site is located on a rectangular shaped allotment with a frontage to Yates Avenue

The application seeks approval for the amalgamation of two separate land parcels, tree removal, demolition of existing structures and construction of a two storey 83 place centre-based childcare facility with 22 parking spaces on the lower ground floor.

Council has received notice that the applicant has lodged a Deemed Refusal Appeal with the Land and Environment Court on 16 August 2023.

The issues with the current proposal arise from the provision or required areas for play, landscaping, and storage.

Additional issues include an impact on the acoustic amenity in the area and in an attempt to ameliorate it, resulting in excessively high acoustic fences.

The applicant was requested to submit additional information in response to the issues raised, however no additional information was received.

The application was notified/advertised and received twenty-seven (27) unique submissions within the notification period. The issues raised related to traffic movement and congestion, amenity, safety, and security, over shadowing, privacy and acoustic.

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

## 2. Site Description and Conditions

The subject site is known as **7 Yates Avenue, Dundas Valley (Lot 599/600 DP 36700)**. The site is a rectangular shaped allotment with a site area of 1279.3m<sup>2</sup> comprising of a 31.09m frontages to Yates Avenue. The site has an approximate cross fall of 5.87m from the site's northern corner and to the southern corner.

The site currently accommodates 2 x older style single storey residential multi-unit dwellings accommodating eight individual dwellings with a communal bin area and parking within the front setback. The site is located within an area zoned as R2 Low Density Residential under the Parramatta Local Environmental Plan 2011. Surrounding properties are also zoned R2 Low Density Residential.

The locality is within close proximity to educational establishments, places of public worship, Telopea Commercial Centre and local parks/reserves. Bus stops with services to West Ryde, Carlingford and Parramatta are within a 140m walking radius from the development site.



Figure 1: Aerial photograph of subject site, outlined in red, and its surrounds (Nearmap, June 2023)

The subject site has the following area and dimensions (based on the Survey Plan):

Area	1279.3 square metres
Yates Avenue (South)	31.09 metres
West Side Boundary	41.15 metres
East Side Boundary	41.15 metres
North Rear Boundary	31.09 metres

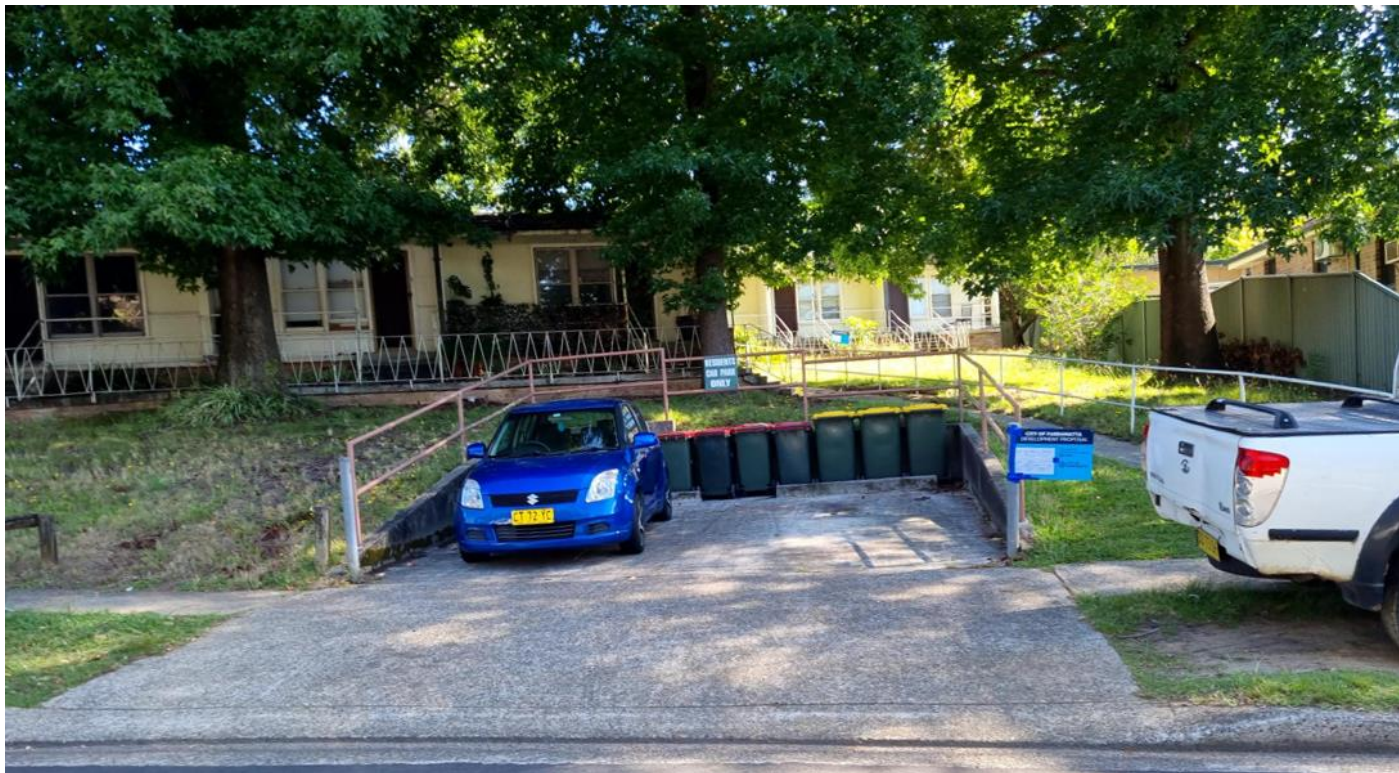


Figure 2: Subject site viewed from Yates Avenue. (Site inspection, 18 January 2023)

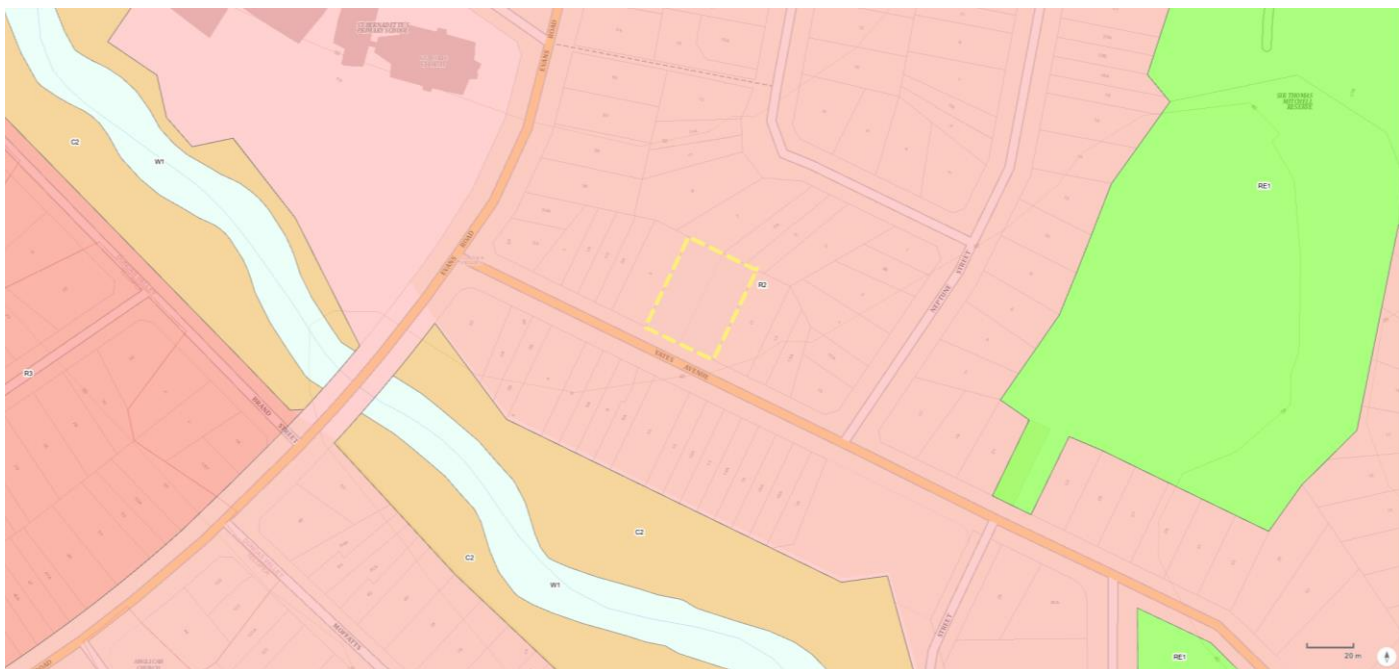


Figure 3: Zoning map (ePlanning Spatial Viewer)

### 3. Relevant Site History

The table below shows the application history for the site:

Date	Comment
2 December 2021	A pre-lodgement meeting was held (PL/133/2021) for the <i>Amalgamation of two lots, demolition of existing structures and construction of a centre based childcare centre for 83 children</i> . The proposal was not supported due to planning and compliance issues.
9 January 2023	DA/7/2023 was lodged with Council and is the subject of this report.

## 4. The Proposal

Development Application DA/7/2023 was lodged on 9 January 2023 for an 83 place childcare centre. Specifically, the application seeks approval for:

- **Consolidate the 2 land parcels.**
- **Demolition of all existing structures**
- **The removal of 6 trees**
- **Construction of a part 1 and part 2 storey centre-based childcare centre**  
The childcare centre is a part two (1), part three (2) storey development with associated basement car parking.

### Hours of Operation

Monday to Friday: 7:00AM to 6:00PM

### Number of Children

0 – 2 years old: 8 children

2 – 3 years old: 25 children

3 – 5 years old: 50children

Total: 83 children (max.)

### Number of Staff

Twelve (12) staff are proposed to be working at any time and will be divided amongst the age groups.

### Parking Spaces

A total of seventeen (22) car parking spaces are proposed in the basement with the following allocations:

- 12 staff car parking spaces including 3 within a stacked parking arrangement; and
- 10 visitor car parking spaces including 2 accessible car parking spaces.

### Waste

A waste storage area has been proposed to be located within the basement car park

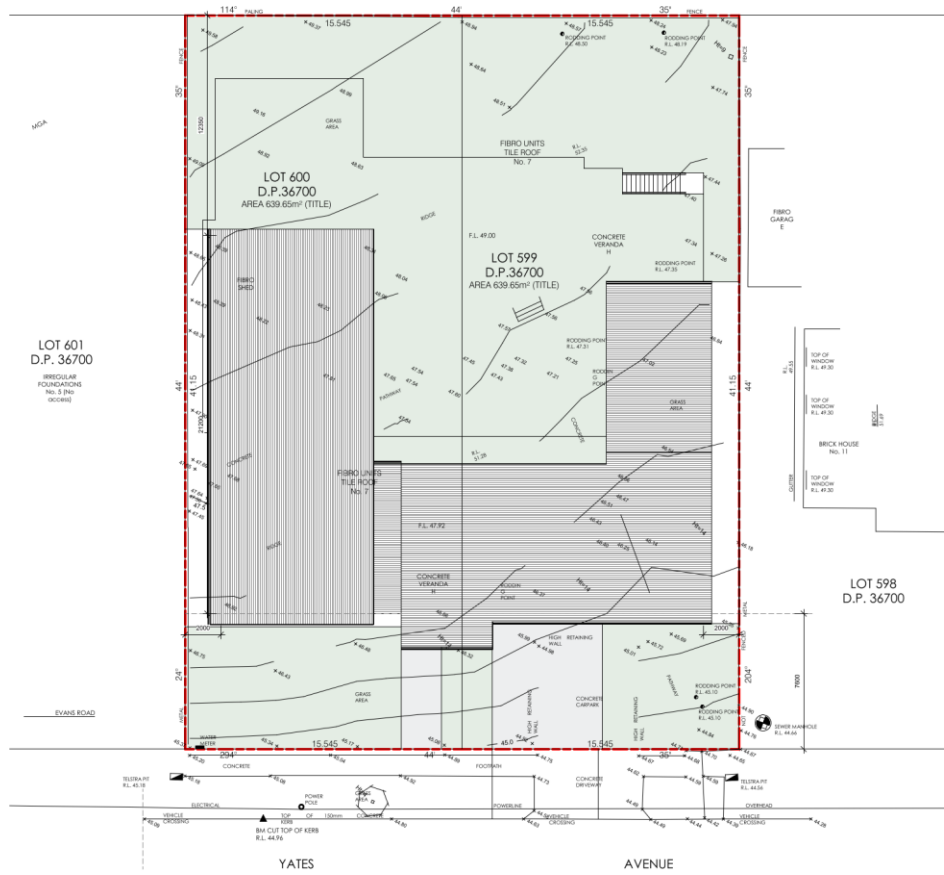


Figure 3: Site Plan (Baini Design)

1 Site Plan  
1:100



Figure 4: South Elevation from Yates Avenue (Baini Design)

## 5. Relevant Application History

Date	Comment
9 January 2023	DA/7/2023 was <b>lodged</b> for the Amalgamation of two separate land parcels, tree removal, demolition of existing structures and construction of a two storey 83 place centre-based childcare facility with 22 parking spaces on the lower ground floor.
18 January 2023	Public Notification for written submissions issued.
9 February 2023	Public Notification for written submissions closed.
23 March 2023	The application was referred to the Design Excellence Advisory Panel (DEAP).
16 August 2023	A class 1 Deemed refusal appeal was lodged with the Land and Environment Court.

## 6. Referrals

The application has been referred to Council's relevant internal teams for assessment. The referral responses have been summarised and discussed in the table below.

<b>Internal Team</b>	<b>Comments</b>
<b>6.1 Development Engineer</b>	Acceptable, subject to conditions of consent in the event approval was recommended.  The proposed development is not flood prone and has gravity drainage to Council kerb inlet pit. The proposed development has also been assessed using the 3rd edition and is considered satisfactory.
<b>6.2 Environmental Health</b> (Acoustic, Food & Waste)	<u>Acoustic – Not Supported</u> <ul style="list-style-type: none"> <li>- the mechanical plant has not been selected for the proposed childcare centre.</li> <li>- numerous submissions have been received regarding noise, traffic and vehicle and pedestrian movement for the above development application. These issues would have needed to be addressed in the acoustic report and Plan of Management.</li> <li>- The Plan of management and acoustic report do not address staff arriving before 7am. Any operations before 7am is a nighttime period.</li> </ul> <u>Food – Not Supported</u> <ul style="list-style-type: none"> <li>- Floor waste basket for kitchen and the waste storage area have not been identified.</li> <li>- The kitchen does not show the location of the kitchen exhaust hood and canopy.</li> <li>- The dedicated hand wash basin and the wash up sink needs have not been labelled on the floor plans.</li> <li>- The location of grease trap and floor and trade waste basket have not been labelled. This is required for Sydney Water Trade Waste Requirements.</li> </ul> <u>Waste – Supported</u> Subject to conditions of consent in the event approval was recommended.
<b>6.3 Landscape and Tree Assessment</b>	Acceptable. Would have been subject to conditions should the application have been recommended for approval.
<b>6.5 Traffic and Transport</b>	Acceptable, subject to conditions of consent in the event approval was recommended.  According to the Parramatta DCP 2011: Required: 21 (20.75) parking spaces with 2 accessible parking space Proposed: Twenty-two (22) car parking spaces are provided with the inclusion of two (2) accessible car parking spaces.  Based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to the following traffic related conditions.  Parking is already permitted in the street which can restrict traffic flow to only one lane.  Council's general approach is to raise an issue with narrow streets if there is a shortfall of parking or if there is some other issue with the car park that would be a deterrent for visitors from using it. The current proposal provided one (1) surplus car parking space and no issues or deterrents have been identified.
<b>6.6 Universal Access and Design</b>	Acceptable, subject to conditions of consent in the event approval was recommended.
<b>6.7 Design Excellence Advisory Panel (DEAP)</b>	Not Supported. Refer to the discussion below.
<b>External Agency</b>	<b>Comments</b>
No external referrals required.	

### 6.7 Design Excellence Advisory Panel (DEAP)

The development application was referred to the Design Excellence Advisory Panel (DEAP) on 23 March 2023. The Panel concluded that the proposal could not be supported and provided the following comments below. Councils Planner has responded to each comment.

1. *The Panel is concerned that the applicant has not properly considered the site context. This is one of the last sites in the street with significant trees in close proximity to the street. New development in the street has resulted in a noticeable lack of trees providing shade and character to the locality. Whilst the subject trees are not ideally located on the site for a new development, they are in good condition and would provide much needed shade and character to the site and surrounds. There has been no attempt to either retain one or more of the trees or alternatively to present options to the panel to explain why the proposed layout is appropriate.*

**Planners comment:** The three trees located in the frontage are Liquidambar (Liquidambar styraciflua). Council's landscape officers have reviewed the proposal and raised no objection to the removal of those trees as they are not native species.

2. *Only one option is shown whereas the Panel considers that other alternative options should be explored that address the existing site and context.*

**Planners comment:** Noted. It is not normal practice for a development application to be submitted with alternative options for a design.

3. *Trees should be used as an opportunity for a successful layout (e.g., to provide character and to be used as a feature of the site) both in front and at the rear of the site.*

**Planners comment:** Refer to the planners comment in comment 1.

4. *The design of the front setback showing landscaping and open detention basin is unclear with inadequate details in the plans, sections, and elevations.*

**Planners comment:** An open detention basin is not proposed in the front setback.

5. *The proposed entry on the lower level is too narrow and convoluted and provides little opportunity for gathering. Consider the users of the facility and create opportunities for easy and safe access, places to gather, shade, places to leave equipment, bikes or prams, etc. The current 1:14 entry ramp provides poor amenity and does not improve the streetscape. Ramps requiring kerbs and handrails should be avoided, and if necessary, only have 1:20 walkways to provide equitable and comfortable access. The front setback could provide a useable courtyard-like space for visitors and staff.*

**Planner's comment:** The proposed entry lacks many of the requirements need for the effective operation of a childcare centre. These issues have been raised by Council's planners.

6. *The main reception area, toilets, staff room and outdoor areas need to comply with NSW Design Guidelines. The entry and ancillary spaces should be well lit and ventilated naturally and provide views of the courtyard where appropriate.*

**Planner's comment:** Council agrees with DEAP that the application needs to comply with Childcare Centre Guidelines. The amenity of the entry requires the improvements as outlined in the DEAP's comments.

7. *From the lobby on the upper level there is no internal access to the indoor play area for 2-3 yr olds other than through the 0-2 yr play area and bathroom.*

**Planner's comment:** Council agrees with the DEAP's comment, and the internal circulation of the proposal is deficient and requires improvements.

8. *The upper-level lobby is tight with doors opening inwards that impede the circulation and may not comply with relevant building codes.*

**Planner's comment:** Council agrees with the DEAP's comment.

9. *The interactive walkway is narrow and exposed to inclement weather making it undesirable for required circulation.*

**Planner's comment:** Refer to the planner comment in comment 7.

10. *Provide quality indoor circulation and instead consider the interactive walkway as a veranda that wraps around the courtyard and that is deep enough for covered outdoor activities.*

**Planner's comment:** Refer to the planner comment in comment 7.

11. *The proposed basement extends beyond the building footprint and should be contained within it to maximise deep soil and to allow for deep soil planting in critical areas for shade and for privacy screening.*

**Planner's comment:** While the size of the basement allows for compliance with the car parking requirements on site the issue of insufficient landscaping has been raised in the report.

12. *The outdoor play area is short by 71sqm. A smaller building footprint and less childcare places would assist in resolving many of the problems raised by the Panel.*

*To address these and other site related shortcomings in the current proposal, the Panel recommends greater dialogue between the Architect and Landscape Architect to reconfigure the new building footprint and outdoor play areas.*

**Planner's comment:** Council has raised the issue of insufficient play areas and agrees with the DEAP's comment.

13. *Plans lack critical information such as existing and approved or indicative development on all adjacent properties. Regarding the sections and elevations there are no vertical boundary lines, no boundary fences, no noise barriers, no neighbouring buildings or other structures, no existing ground levels, and no vegetation, all of which must be shown in order to properly assess the application.*

**Planner's comment:** Noted

14. *The absence of the relevant information also applies to the landscape plans.*

**Planner's comment:** Noted

15. *There is also no indication of the relationship with adjoining properties with regard to privacy and acoustic impacts.*

**Planner's comment:** Noted

16. *Whilst the front setback complies with the DCP, it is unclear how the setback area and the building relates to its neighbours or to the street.*

**Planner's comment:** The proposed front setback is acceptable and complies with the requirements of the DCP.

17. *The façade appears overbearing and dominated by the garage whereas the pedestrian entrance appears as a side door rather than the main entrance.*

**Planner's comment:** The pedestrian entrance is provided separate from the basement driveway and meets the requirements of the Childcare centre guidelines.

18. *The building as represented in the architectural drawings does not contribute to the character of the area.*

**Planner's comment:** Without further explanation as to the reasoning behind this comment, Council cannot determine if and how the proposal should be modified to achieve this outcome.

19. *The errors and lack of information mentioned elsewhere in this report demonstrate a lack of attention to detail.*

**Planner's comment:** Noted

20. *Whilst the landscape elevations show a softer touch to the design of the building, the building appears slightly sunken with the lower ground floor lower than the footpath level. The architectural drawings, on the other hand, show the lower ground floor higher than the footpath level and with arrows on the entrance ramps pointing in the wrong direction.*



**Planner's comment:** Noted

21. *Yates Avenue is a narrow two-way street that functions as a one-way alternate street when vehicles are parked in the road and there is not much room to pass, raising potential traffic safety concerns.*

**Planner's comment:** Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.

22. *The proposed evacuation plan is convoluted and unclear. The plan appears to rely on a single pathway through the main entry to the building on the lower level via the parking area.*

**Planner's comment:** Council has raised the evacuation plan as an issue and agrees with the DEAP's comment.

23. *Although the proposal complies numerically with the FSR and height controls, it does not fit the site or contribute to the street or local character and thereby does not meet design excellence provisions.*

**Planner's comment:** As the proposal complies with the numerical controls of FSR, height and setbacks, and argument of 'does not fit the site' is speculative. Council has raised the issue of streetscape as an issue due to a lack of information.

24. *The Panel is advised that should the DA not be withdrawn; it will go to the LPP as it has received 27 submissions from the local community.*

**Planner's comment:** Noted

## 7. Environmental Planning Instruments

### 7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Parramatta Local Environmental Plan 2023
- Parramatta Local Environmental Plan 2011
- Parramatta Development Control Plan 2011
- Child Care Guidelines 2021

### 7.2 SAVINGS PROVISIONS AGAINST PREVIOUS LOCAL ENVIRONMENTAL PLANS

#### Parramatta Local Environmental Plan 2023

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

- Parramatta Local Environmental Plan 2011

#### Clause 1.8A Savings provision relating to development applications states:

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

The current DA was lodged on 9 January 2023 and therefore shall be assessed under Parramatta Local Environmental Plan 2011.

The zoning of the site is R2 Low Density Residential and childcare centres are permissible with consent.

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

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

CLAUSE	COMMENT
Clause 2.48 – Electricity infrastructure	The subject site is not in the vicinity of electricity infrastructure that would trigger the concurrence of the electricity supply authority.
Clause 2.98 – Development adjacent to rail corridors	The subject site is not adjacent to a rail corridor.
Clause 2.119 – Impact of road noise or vibration on non-road development	The subject site does not have frontage to a classified road.
Clause 2.120 – Impact of road noise or vibration on non-road development	<i>Yates Avenue</i> has an average daily traffic volume of less than 20,000 vehicles per day. As such, clause 102 is not applicable to the development application.
Clause 2.122 – Traffic-generating development	The proposal does not generate more than 200 motor vehicles per hour and is not a site with access to a classified road or to a road that connects to a classified road.  The proposed Childcare centre on <i>Yates Avenue</i> does not trigger Clause 2.122.

### 7.3 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021- CHAPTER 3 EDUCATIONAL ESTABLISHMENT AND CHILDCARE FACILITIES

Standards and Provisions	Compliance
<b>Part 3.3 Early Education and Care Facilities – Specific Development Controls</b>	
CI.3.22 Centre based childcare facility – concurrence of Regulatory Authority required for certain development	<b>Would have been required.</b> The application, in its current form, does not satisfy the requirements of Regulation 107 (indoor unencumbered space requirements) and Regulation 108 (outdoor unencumbered space requirements).. The applicant was requested to amend the application to meet the requirements, however, the applicant did not agree to council's request. For further information, refer to the assessment under Clause 3.26 of this table.
CI 3.24 Centre based childcare facility in Zone IN1 or IN2	<b>N/A</b> The subject is not zoned as IN1 General Industrial or IN1 Light Industrial.
CI 3.25 Centre based childcare facility – Floor Space Ratio	<b>Yes</b> Control = 0.5:1 or 639.65m <sup>2</sup> Proposed = 0.334:1 or 427.5m <sup>2</sup>
CI 3.26 Centre based childcare facility – non-discretionary development standard	<b>No</b> <u>Location</u> – The site is with a 1km radius of 4-5 other childcare centres. Part (2)(a) of the clause allows the development to be located at any distance from an existing or proposed early education and care facility.  <u>Indoor Space</u> – The proposal does not comply with the requirements under Regulation 107 of the Childcare Planning Guidelines as a full assessment of the unencumbered floor area cannot be completed. Details regarding the provision of any storage lockers for use by the children are not provided on the plans as those areas would need to be excluded from the area calculations.  <b>No</b> – The proposal does not comply with 3.25m <sup>2</sup> of unencumbered indoor space provided for each child.  Number of children: 83 Minimum unencumbered space required: 270m <sup>2</sup> . Total unencumbered space proposed: 270m <sup>2</sup> . However, with no details regarding the provision of any storage lockers for use by the children, the unencumbered indoor play is considered non-compliant.  <u>Outdoor Space</u> – The proposal requires a minimum of 581m <sup>2</sup> of outdoor unencumbered space for 83 children under Regulation 108 of Guidelines. The proposal does not provide sufficient outdoor play areas.

	<p>Thoroughfares and spaces not suitable for children (along the rear boundary where supervision of a small child is limited due to the landscaping) have not been used in the calculation of unencumbered outdoor space.</p> <p><b>No</b> – The proposal does not comply with 3.25m<sup>2</sup> of unencumbered outdoor space provided for each child.</p> <p>Number of children: 83  Minimum unencumbered space required: 581m<sup>2</sup>.  Total unencumbered space proposed: 509m<sup>2</sup>.</p> <p><u>Site Area and Dimensions-</u> The site is of satisfactory size and shape.</p> <p><u>Colour of building and materials-</u> The proposed building materials and colours are satisfactory.</p> <p>Note: Non-discretionary development standards subject of this clause have not been complied with &amp; will be used as a basis for refusal of this application.</p>
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### **7.2.1 Child Care Planning Guidelines 2021**

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

Considerations and Requirements	Compliance/Discussion
<b>Part 3 – Matters for consideration</b>	
<b>3.1 Site selection and location</b>	
<p><b>C1</b> For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> <li>• The acoustic and privacy impacts of the proposed development on the residential properties;</li> <li>• The setbacks and siting of buildings within the residential context;</li> <li>• Traffic and parking impacts of the proposal on residential amenity.</li> </ul>	<p><b>No</b> – Concern is raised as to the management solutions of the acoustic plan to ensure an adequate acoustic treatment of the development in its current form. See C22 below.</p> <p><b>Yes</b> – The setbacks are considered acceptable for a residential allotment.</p> <p><b>Yes</b> – Council’s Traffic &amp; Transport Investigations Engineer did not raise any concerns with regards to the traffic and parking impacts on the local area. For additional information, refer to the traffic and transport comments in section 6.5 of this report. Regarding traffic and parking, the proposal can be supported.</p> <p>However, the basement parking’s significant size results in unsatisfactory landscaped areas in the rear. This results in a poor design outcome for the users of the childcare centre.</p>
<p><b>C2</b> When selecting a site, ensure that:</p> <ul style="list-style-type: none"> <li>• The location and surrounding uses are compatible with the proposed development or use;</li> <li>• The site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards;</li> <li>• There are no potential environmental contaminants on the land, in the building or the general proximity,</li> </ul>	<p><b>Yes</b> – In its current form, the development is considered to be compatible with the surrounding residential properties.</p> <p><b>Yes</b> – The site is not subject to these risks and hazards.</p> <p><b>Yes</b> – There are no known potential environmental contaminants within the subject site and surrounding properties.</p>

<p>and whether hazardous materials remediation is needed;</p> <ul style="list-style-type: none"> <li>• The characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> <li>○ size of street frontage, lot configuration, dimensions and overall size;</li> <li>○ number of shared boundaries with residential properties; and</li> <li>○ the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas;</li> </ul> </li> <li>• There are suitable drop off and pick up areas, and off and on street parking;</li> <li>• The type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use;</li> <li>• It is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises.</li> </ul>	<p><b>No</b> – The subject site consists of one street frontage and shares boundaries with five (5) residential properties, 2 of which are the result of a subdivided dual occupancy to the rear. With the proposal noncompliance with both indoor and outdoor play space area, the scale of the proposal would be considered unsuitable for the site. With five (5) residential properties sharing a boundary with the subject site, the impacts created by the proposal would be greater, especially from an acoustic assessment.</p> <p><b>Yes</b> – Council’s Traffic &amp; Transport Investigations Engineer did not raise any concerns with regards to the traffic and parking impacts on the local area. For additional information, refer to the traffic and transport comments in section 6.5 of this report.</p> <p>The proposal does not rely on on-street parking as all drop offs are to be done on site.</p> <p><b>Yes</b> – Council’s Traffic &amp; Transport Investigations Engineer did not raise any concerns with regards to the traffic and parking impacts on the local area. For additional information, refer to the traffic and transport comments in section 6.5 of this report.</p> <p><b>Yes</b> – The site is not located closely to incompatible social areas. It should be noted that the site is approximately 320m walking distance away from the Vikings Sports Club, a licensed premises for alcohol and gambling, located at 35 Quarry Road Dundas Valley. It is not considered that the Club’s operation would have impacted on the childcare centre.</p>
<p><b>C3</b> A child care facility should be located:</p> <ul style="list-style-type: none"> <li>• Near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship;</li> <li>• Near or within employment areas, town centres, business centres, shops;</li> <li>• With access to public transport including rail, buses, ferries; and</li> <li>• In areas with pedestrian connectivity to the local community, businesses, shops, services and the like.</li> </ul>	<p><b>Yes</b> – The site is within the vicinity of St Bernadette’s Primary School and St Bernadette’s catholic Church. The site is within proximity to Telopea Commercial Centre and local parks/reserves. Bus stops with services to West Ryde, Carlingford and Parramatta are within a 140m walking radius from the development site.</p>
<p><b>C4</b> A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> <li>• Proximity to: <ul style="list-style-type: none"> <li>○ heavy or hazardous industry, waste transfer depots or landfill sites;</li> <li>○ LPG tanks or service stations;</li> <li>○ water cooling and water warming systems;</li> </ul> </li> </ul>	<p><b>Yes</b> – The site is not located near industrial, waste transfer depots, landfill sites, service stations, water cooling or warming systems, air pollutant generating uses or any other land use that would create environmental hazards.</p>

<ul style="list-style-type: none"> <li>○ odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses;</li> <li>○ extractive industries, intensive agriculture, agricultural spraying activities; and</li> <li>● Any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site.</li> </ul>	
<b>3.2 Local character, streetscape and the public domain interface</b>	
<p><b>C5</b> The proposed development should:</p> <ul style="list-style-type: none"> <li>● Contribute to the local area by being designed in character with the locality and existing streetscape;</li> <li>● Reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> <li>● Recognise predominant streetscape qualities, such as building form, scale, materials and colours;</li> <li>● Include design and architectural treatments that respond to and integrate with the existing streetscape;</li> <li>● Use landscaping to positively contribute to the streetscape and neighbouring amenity; and</li> <li>● Integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	<p><b>Yes</b> – The proposed childcare centre has a built form that is compatible with the desired future character of the area. Examples of modern developments of similar built form are evident on Yates Avenue.</p>
<p><b>C6</b> Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> <li>● Fencing to ensure safety for children entering and leaving the facility;</li> <li>● Windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community; and</li> <li>● Integrating existing and proposed landscaping with fencing.</li> </ul>	<p><b>No, insufficient information</b> – Insufficient information was provided relating to the materials, colours and height of the proposed front fence. Therefore, a complete assessment of the impacts of these items cannot be determined.</p> <p>Windows from the development face Yates Avenue and provide passive surveillance to the street.</p> <p>Sufficient landscaping has been proposed within the front setback of the proposal.</p>
<p><b>C7</b> On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</p>	<p><b>N/A</b> – Only building situation on the site.</p>
<p><b>C8</b> Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</p> <ul style="list-style-type: none"> <li>● Clearly defined street access, pedestrian paths and building entries;</li> <li>● Low fences and planting which delineate communal/ private open space from adjoining public open space; and</li> <li>● Minimal use of blank walls and high fences.</li> </ul>	<p><b>N/A</b> – The development does not adjoin a public park, open space or bushland.</p>
<p><b>C9</b> Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.</p>	<p><b>No, insufficient information</b> – Insufficient information was provided relating the materials, colours and height of the proposed front fence. Therefore, a complete assessment of the impacts of these items cannot be determined.</p>
<p><b>C10</b> 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><b>N/A</b> – The subject site does not adjoin a classified road.</p>
<b>3.3 Building orientation, envelope, and design</b>	

<p><b>C11</b> Orient a development on a site and design the building layout to:</p> <ul style="list-style-type: none"> <li>• Ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> <li>○ Facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties;</li> <li>○ Placing play equipment away from common boundaries with residential properties;</li> <li>○ Locating outdoor play areas away from residential dwellings and other sensitive uses;</li> </ul> </li> <li>• Optimise solar access to internal and external play areas;</li> <li>• Avoid overshadowing of adjoining residential properties;</li> <li>• Minimise cut and fill;</li> <li>• Ensure buildings along the street frontage define the street by facing it; and</li> <li>• Ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	<p><b>Yes –</b> The building layout attempts to direct noise and overlooking impacts away from the surrounding neighbouring properties. The building has been appropriately setback from neighbouring properties and windows towards side boundaries are fixed.</p> <p>Play equipment are located away from common boundaries.</p> <p>The location of the outdoor play area is located at the rear of the proposal and with the proposed U-shape, a buffer is provided to neighbouring properties while remaining compliant with setback controls.</p> <p>The building does optimise on solar access to both internal and external play areas. The proposal does not create unreasonable over shadowing to neighbouring properties due to its north-south orientation.</p> <p><b>No –</b> The majority of the proposed cut on site is for the excavation of the basement with some minor cut along the north and west boundary of up to 260mm. This proposed cut is acceptable.</p> <p>The proposed fill along the eastern boundary ranges from 0mm to 1140mm of fill. The proposed fill of 1140mm will result in a larger acoustic fence towards the eastern neighbour impacting their visual amenity. The resulting acoustic fence and fill will have a height of 2.2m - 3.34m from the neighbours natural ground level. The proposed fill is not supported.</p> <p>The building does face the street.</p> <p>No play areas are located above ground level,</p>
<p><b>C12</b> The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> <li>• Building height should be consistent with other buildings in the locality;</li> <li>• Building height should respond to the scale and character of the street;</li> <li>• Setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility;</li> <li>• Setbacks should provide adequate access for building maintenance; and</li> <li>• Setbacks to the street should be consistent with the existing character.</li> </ul>	<p><b>Yes –</b> The proposed childcare centre has a built form that is compatible with the desired future character of the area. Examples of modern developments of similar built form are evident on Yates Avenue.</p>
<p><b>C13</b> Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p><b>N/A –</b> The site does not front a classified road.</p>
<p><b>C14</b> On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p><b>Yes –</b> The proposal satisfies the prevailing front and required rear setback for the area.</p>
<p><b>C15</b> Entry to the facility should be limited to one secure point which is:</p>	<p><b>No –</b> The proposed development allows for access to the facility through the administrative area. The administrative</p>

<ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> <li>• directly accessible from the street where possible</li> <li>• directly visible from the street frontage</li> <li>• easily monitored through natural or camera surveillance</li> <li>• not accessed through an outdoor play area.</li> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>area is connected to the basement parking and frontage to allow for ease of access for all parents.</p> <p>As the administrative area lacks many requirements (see section 4.5 of this assessment table for further information), monitoring the space is unclear.</p> <p>Due to an issue of monitoring the access point, access to the facility is not considered secure.</p>
<p><b>C16</b> Accessible design can be achieved by:</p> <ul style="list-style-type: none"> <li>• Providing accessibility to and within the building in accordance with all relevant legislation;</li> <li>• 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;</li> <li>• 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</li> <li>• Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul> <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><b>Yes</b> – Council’s Universal Access and Design Officer has reviewed the proposal and upon review, has noted that a comprehensive Draft Access Report by Vista Access Architects Pty Ltd has been provided.</p> <p>The proposal could have been supported subject to conditions of consent requiring compliance with a finalised Vista Access Architects Pty Ltd report.</p>
<p><b>3.4 Landscaping</b></p>	
<p><b>C17</b> 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"> <li>• Reflecting and reinforcing the local context; and</li> <li>• Incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	<p><b>Yes</b> – The proposed landscape plan is acceptable and incorporates natural features with planting along the boundary.</p> <p>Council’s Landscape Officer has completed their assessment of the proposal and support the proposal. Should the application have been recommended for approval, appropriate conditions of consent would have been imposed.</p>
<p><b>C18</b> Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> <li>• Planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings;</li> <li>• Taking into account streetscape, local character and context when siting car parking areas within the front setback; and</li> <li>• Using low level landscaping to soften and screen parking areas.</li> </ul>	<p><b>N/A</b> – the proposed car parking is in the basement.</p>
<p><b>3.5 Visual and acoustic privacy</b></p>	
<p><b>C19</b> Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p><b>N/A</b> – The proposed development is not located in a mixed-use development.</p>

<p><b>C20</b> Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> <li>• Appropriate site and building layout;</li> <li>• Suitably locating pathways, windows and doors; and</li> <li>• Permanent screening and landscape design.</li> </ul>	<p><b>Yes</b> – the proposal’s site and layout do not allow direct overlooking of indoor rooms and outdoor play spaces from public areas. Appropriate screen planning is proposed as part of the landscape plan.</p>
<p><b>C21</b> Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> <li>• Appropriate site and building layout;</li> <li>• Suitable location of pathways, windows and doors; and</li> <li>• Landscape design and screening.</li> </ul>	<p><b>Yes</b> – the proposal’s site and layout do not allow direct overlooking of main internal living areas and private open spaces in adjoining developments. The proposal transitions from a double storey building at the front to a single storey building at the rear, providing additional privacy to both the subject site and neighbouring properties.</p> <p>Appropriate screen planning is proposed as part of the landscape plan.</p>
<p><b>C22</b> A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> <li>• Provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence); and</li> <li>• Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ul>	<p><b>No</b> – An acoustic fence, 2.1m – 2.6m in height, is proposed along the side and rear boundaries to protect the acoustic amenity of adjoining residential properties.</p> <p>However, the proposed acoustic fence height is considered to be excessive and impacts the visual amenity of the neighbouring properties. This is demonstrating that the solutions to mitigate constraints further results in non-compliance and unsuitability of the subject site.</p> <p>Therefore, although the development may be able to achieve a suitable acoustic environment, the proposed acoustic fences would have unreasonable impacts on neighbouring residents.</p>
<p><b>C23</b> A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> <li>• Identify an appropriate noise level for a child care facility located in residential and other zones;</li> <li>• Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use; and</li> <li>• Determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<p><b>No</b> – Council’s Environmental Health – Acoustic Officer has reviewed the proposal and does not support the proposal. For additional information, refer to the comments in section 6.2 ‘Acoustic’ of this report.</p>
<p><b>3.6 Noise and air pollution</b></p>	
<p><b>C24</b> Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> <li>• Creating physical separation between buildings and the noise source</li> <li>• Orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>• Using landscaping to reduce the perception of noise sources</li> <li>• Using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> <li>• Using materials with mass and/or sound insulation or absorption properties, such as solid balcony, external screens and soffits</li> <li>• Locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	<p><b>N/A</b> – The proposed development is not within vicinity to noise and air pollution sources.</p>
<p><b>C25</b> An acoustic report should identify appropriate noise levels for sleeping areas and other non-play</p>	<p><b>N/A</b></p>



<p>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"> <li>• On industrial zoned land</li> <li>• Where the ANEF contour is between 20 and 25, consistent with AS 2021-2000</li> <li>• Along a railway or mass transit corridor, as defined by State Environmental Planning Policy (infrastructure) 2007</li> <li>• On a major or busy road</li> <li>• Other land that is impacted by substantial external noise.</li> </ul>	<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><b>C26</b> located child care facilities on site which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.</p>	<p><b>N/A</b> The site is not located on a major road or within the proximity to industrial development.</p>
<p><b>C27</b> A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care 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"> <li>• Creating an appropriate separation distance between the facility and the pollution source. The location of play areas, sleeping areas and outdoor areas should be as far as practicable from major source of air pollution</li> <li>• Using landscaping to act as a filter for air pollution</li> </ul>	<p><b>N/A</b> An air quality assessment report is not required.</p>
<p><b>3.7 Hours of operation</b></p>	
<p><b>C28</b> Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p><b>Yes</b> – The proposed hours of operation complies.  Monday to Friday: 7AM to 6PM</p>
<p><b>C29</b> Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p><b>N/A</b> – The site is not within mixed use areas.</p>
<p><b>3.8 Traffic, parking, and pedestrian circulation</b></p>	
<p><b>C30</b> Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>The Parramatta DCP 2011 specifies a parking rate of: <i>1 space per 4 children &amp; 1 accessible space in every 10 spaces.</i></p> <p>The parking required for the proposal based on the above is 20.75 (21) spaces with the inclusion of 2 accessible spaces.</p>	<p><b>Yes</b> – Twenty-two (22) car parking spaces are provided with the inclusion of two (2) accessible car parking spaces.</p>
<p><b>C31</b> In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p><b>N/A</b> – The site is not located in a commercial or industrial zone.</p>
<p><b>C32</b> A Traffic and Parking Study should be prepared to support the proposal to quantify</p>	<p><b>Yes</b> – The application was accompanied by a Parking &amp; Traffic Impact Assessment report.</p>

<p>potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>• The amenity of the surrounding area will not be affected; and</li> <li>• There will be no impacts on the safe operation of the surrounding road network.</li> </ul>	<p>Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.</p> <p>Refer to Section 6.5 of this assessment report for detailed discussion.</p>
<p><b>C33</b> Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• A classified road; and</li> <li>• Roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>• The prevailing traffic conditions;</li> <li>• Pedestrian and vehicle safety including bicycle movements; and</li> <li>• The likely impact of the development on traffic.</li> </ul>	<p><b>N/A</b> – The subject site is not accessed from a classified road or a road which carries freight traffic or transports dangerous and hazardous materials.</p>
<p><b>C34</b> Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p><b>N/A</b> – The site is not located within a cul-de-sac.</p>
<p><b>C35</b> The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> <li>• Separate pedestrian access from the car park to the facility;</li> <li>• Defined pedestrian crossings included within large car parking areas;</li> <li>• Separate pedestrian and vehicle entries from the street for parents, children and visitors;</li> <li>• Pedestrian paths that enable two prams to pass each other;</li> <li>• Delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities;</li> <li>• In commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas; and</li> <li>• Vehicles can enter and leave the site in a forward direction.</li> </ul>	<p><b>Yes</b> – The current design, allows for safe pedestrian access as the entrance is separate from the carparking. The pedestrian environment onsite satisfied the requirements of the control.</p>
<p><b>C36</b> Mixed use developments should include:</p> <ul style="list-style-type: none"> <li>• Driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks;</li> <li>• Drop off and pick up zones that are exclusively available for use during the facility's operating hours with spaces clearly marked accordingly, close to the main entrance and preferably at the same floor level. Alternatively, direct access should avoid crossing driveways or manoeuvring areas used by vehicles accessing other parts of the site; and</li> </ul>	<p><b>N/A</b> – The development is not a mixed use development.</p>

<ul style="list-style-type: none"> <li>• Parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility.</li> </ul>	
<p><b>C37</b> Car parking design should:</p> <ul style="list-style-type: none"> <li>• Include a child safe fence to separate car parking areas from the building entrance and play areas;</li> <li>• Provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards; and</li> <li>• Include wheelchair and pram accessible parking.</li> </ul>	<p><b>Yes</b> – Car parking design with regard to these specific requirements is satisfactory.</p>
<p><b>Part 4 – Applying the National Regulations to development proposals</b></p>	
<p><b>4.1 Indoor space requirements</b></p>	
<p><b>Regulation 107 Education and Care Services National Regulations</b> Every child being educated and cared for within a facility must have a minimum of 3.25m<sup>2</sup> of unencumbered indoor space.</p>	<p><b>No</b> – The proposal does not comply with 3.25m<sup>2</sup> of unencumbered indoor space provided for each child.</p> <p>Number of children: 83 Minimum unencumbered space required: 270m<sup>2</sup>. Total unencumbered space proposed: 270m<sup>2</sup>. However, with no details regarding the provision of any storage lockers for use by the children, the unencumbered indoor play is considered non-compliant.</p>
<p><b>Verandahs as indoor space</b> 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><b>Storage</b> 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> <ul style="list-style-type: none"> <li>• A minimum of 0.3m<sup>3</sup> per child of external storage space; and</li> <li>• A minimum of 0.2m<sup>3</sup> per child of internal storage space.</li> </ul>	<p><b>N/A</b> – The proposal does not include a verandah as indoor space.</p> <p>Required: External storage space – 24.9m<sup>3</sup> Internal storage space – 16.6m<sup>3</sup></p> <p>Provided: External storage space – 25.05m<sup>3</sup> Internal storage space – 14.7m<sup>3</sup></p> <p><b>No</b> – The proposal does not provide the required volume for internal storage.</p>
<p><b>4.2 Laundry and hygiene facilities</b></p>	
<p><b>Regulation 106 Education and Care Services National Regulations</b> 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><b>Yes</b> – A laundry room is provided on the ground floor. This room is contained so as not to pose a risk to children.</p>
<p><b>4.3 Toilet and hygiene facilities</b></p>	
<p><b>Regulation 109 Education and Care Services National Regulations</b> A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for</p>	<p><b>No</b> – Insufficient information has been provided to indicate junior toilet pans, low level sinks and hand drying facilities. Windows into bathrooms for supervision have not been implemented or identified.</p>

sanitary facilities that are contained in the <i>National Construction Code</i> .	
<b>4.4 Ventilation and natural light</b>	
<p><b>Regulation 110 Education and Care Services National Regulations</b></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><b>Yes</b> – Sufficient windows have been provided to allow for a satisfactory amount of ventilation. The north-south orientation of the site allows for significant solar access.</p>
<b>4.5 Administrative space</b>	
<p><b>Regulation 111 Education and Care Services National Regulations</b></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><b>No</b></p> <p>A sign in desk is provided at the access point of the facility.</p> <p>A meeting room is not provided within the facility for the purposes of conducting the administrative functions of the service and consultations.</p> <p>A waiting area for parents and caregivers has not been provided.</p> <p>A document storage area is not provided.</p> <p>Given the scale of the development and the proposed children numbers, it is considered that the provisions for private consulting rooms, waiting areas and document storage are necessary.</p>
<b>4.6 Nappy change facilities</b>	
<p><b>Regulation 112 Education and Care Services National Regulations</b></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><b>Yes</b> – Details demonstrating compliance to the design guidance of Section 4.6 of this guide has been provided.</p> <p>Nappy change facilities have been provided for 2–3-year-olds and 0-2 year olds.</p>
<b>4.7 Premises designed to facilitate supervision</b>	
<p><b>Regulation 115 Education and Care Services National Regulations</b></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><b>No</b> – Insufficient Information</p> <p>Details of passive internal windows proposed have not been submitted with the application. The architectural plans do not provide details of the supervision and surveillance of the proposed areas. There is a lack of details provided on the effective supervision to the toilet and wash areas of each indoor play areas by providing supervision windows.</p> <p>Accordingly, the proposal cannot be considered for support.</p>
<b>4.8 Emergency and evacuation procedures</b>	
<p><b>Regulations 97 and 168 Education and Care Services National Regulations</b></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>	<p><b>No, insufficient information</b> – An evacuation diagram has been submitted for assessment showing the evaluation floor plan, however a risk assessment has not been submitted for assessment. Additionally, the evacuation plan results in people in the outdoor play area needing to enter the building and exit through the front entrance, the only point of exit. It should be</p>

<ul style="list-style-type: none"> <li>• Instructions for what must be done in the event of an emergency;</li> <li>• An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and</li> <li>• A risk assessment to identify potential emergencies that are relevant to the service.</li> </ul>	<p>noted that the front entrance is located adjacent to the kitchen, the most likely source of a fire.</p> <p>Although this information is required prior to a licence approval through the regulatory body, Council requires the submission of the document in order to determine a general path of egress from the building to an evacuation point.</p>
<p><b>4.9 Outdoor space requirements</b></p>	
<p><b>Regulation 108 Education and Care Services National Regulations</b></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 7.0m<sup>2</sup> of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> <li>• Pathway or thoroughfare, except where used by children as part of the education and care program;</li> <li>• Car parking area;</li> <li>• Storage shed or other storage area;</li> <li>• Laundry; and</li> <li>• Other space that is not suitable for children.</li> </ul> <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><b>No</b> – The proposal does not comply with 3.25m<sup>2</sup> of unencumbered outdoor space provided for each child.</p> <p>Number of children: 83  Minimum unencumbered space required: 581m<sup>2</sup>.  Total unencumbered space proposed: 509m<sup>2</sup>.</p>
<p><b>4.10 Natural environment</b></p>	
<p><b>Regulation 113 Education and Care Services National Regulations</b></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><b>Yes</b> – The proposed outdoor space does show the experience of the natural environment and proposes various natural landscape elements. A variety of vegetation and floor types have been utilised to enhance outdoor learning and allow for exploration.</p> <p>The architectural plans do respond to the design guidance to meet the regulations. Council's Landscape Officer have reviewed the proposal and support the application.</p>
<p><b>4.11 Shade</b></p>	
<p><b>Regulation 114 Education and Care Services National Regulations</b></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><b>Yes</b></p> <p>Required – 174.3m<sup>2</sup> or 30%  Provided shade area - 187.8m<sup>2</sup> or 32.3%</p> <p>The shaded areas are evenly distributed throughout the proposal.</p> <p>Accordingly, the proposal cannot be considered for support.</p>
<p><b>4.12 Fencing</b></p>	
<p><b>Regulation 104 Education and Care Services National Regulations</b></p> <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>.</p>	<p><b>Yes</b> – The outdoor play area is enclosed by an acoustic barrier fence ranging from 2.1-2.6m high.</p> <p>The proposed fence does meet the requirements of section 4.12.</p> <p>It should be noted that while the proposed acoustic fence does satisfy the requirements of section 4.12, it creates issues with C22 in section 3.5.</p>
<p><b>4.13 Soil assessment</b></p>	

<p><b>Regulation 25 Education and Care Services National Regulations</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>• A soil assessment for the site of the proposed education and care service premises;</li> <li>• If a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken; and</li> <li>• A statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children.</li> </ul>	<p><b>Yes</b> – The applicant has submitted a preliminary investigations report which states that the site is unlikely to be contaminated.</p> <p>Council's records do not indicate the site would be contaminated.</p>												
<p><b>Relevant regulation not addressed in Child Care Planning Guideline August 2021</b></p>													
<p><b>Educator to child ratios-centre based services</b></p>													
<p><b>Regulation 123 Education and Care Services National Regulations</b></p> <p><i>The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—</i></p> <p>(a) for children from birth to 24 months of age—1 educator to 4 children;</p> <p>(b) for children over 24 months and less than 36 months of age—1 educator to 5 children;</p> <p>(c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;</p> <p>(d) for children over preschool age, 1 educator to 15 children.</p>	<p><b>Yes</b> – The Statement of Environmental Effects states that 12 staff will be provided for the childcare centre.</p> <table border="1" data-bbox="735 902 1422 1093"> <thead> <tr> <th>Age Group</th> <th>No. of Children</th> <th>Minimum Educators Required</th> </tr> </thead> <tbody> <tr> <td>0 – 2 years</td> <td>8</td> <td>2</td> </tr> <tr> <td>2 – 3 years</td> <td>25</td> <td>5</td> </tr> <tr> <td>3 – 5 years</td> <td>50</td> <td>5</td> </tr> </tbody> </table> <p>Regulation 122 of <i>Education and Care Services National Regulations</i> states 'An educator cannot be included in calculating the educator to child ratio of a centre-based service unless the educator is working directly with children at the service'.</p> <p>If the application were to be supported, the applicant would be required to provide the minimum number of educators and support staff.</p>	Age Group	No. of Children	Minimum Educators Required	0 – 2 years	8	2	2 – 3 years	25	5	3 – 5 years	50	5
Age Group	No. of Children	Minimum Educators Required											
0 – 2 years	8	2											
2 – 3 years	25	5											
3 – 5 years	50	5											

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

The application has been assessed against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of vegetation from the site. Council's Tree and Landscape Officer has reviewed the application and raised no objections to the removal of the vegetation from the site subject to conditions of consent.

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

- A site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination;
- Historic aerial photographs were used to investigate the history of uses on the site;
- A search of Council records did not include any reference to contamination on site or uses on the site that may have caused contamination;
- A search of public authority databases did not include the property as contaminated;

- The Statement of Environmental Effects states that the property is not contaminated; and
- There is no specific evidence that indicates the site is contaminated and is suitable for a centre-based child care facility.

Therefore, in accordance with Chapter 4 of the State Environmental Planning Policy Resilience and Hazard (2021) Remediation of land, the land is suitable for a centre-based child care facility.

If the application were to be supported, appropriate conditions of consent would have been recommended that if any contamination was found during works, that appropriate remediation is undertaken.

## **PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011**

The site is zoned R2 Low Density under Parramatta Local Environmental Plan and childcare centres are permitted with consent.

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

### *Clause 1.2 Aims of Plan*

- 1) *This Plan aims to make local environmental planning provisions for land in Parramatta in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- 2) *The particular aims of this Plan are as follows:*
  - (a) *to encourage a range of development, including housing, employment and recreation, that accommodates the needs of the existing and future residents, workers and visitors of Parramatta,*
  - (b) *to foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city,*
  - (c) *to identify, conserve and promote Parramatta's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
  - (d) *to improve public access to the city and facilitate the maximum use of improved public transport, together with walking and cycling,*
  - (e) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
  - (f) *to protect and enhance the natural environment, including areas of remnant bushland in Parramatta, by incorporating principles of ecologically sustainable development into land use controls,*
  - (g) *to improve public access along waterways where natural values will not be diminished,*
  - (h) *to enhance the amenity and characteristics of established residential areas,*
  - (i) *to retain the predominant role of Parramatta's industrial areas,*
  - (j) *to ensure that development does not detract from the economic viability of Parramatta's commercial centres,*
  - (k) *to ensure that development does not detract from the operation of local or regional road systems,*
  - (l) *to ensure development occurs in a manner that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependant ecosystems.*

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. Additionally, the proposal does not foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city. As such, the proposal is recommended for refusal.

### *Clause 2.3 Zone objectives and Land Use Table*

The aims and objectives for the R2 Zone in Clause 2.8 – 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 ensure that non-residential land uses are located in a context and setting that minimises impacts on the amenity of a low-density residential environment.*
- *To allow for a range of community facilities to be provided to serve the needs of residents, workers and visitors in residential neighbourhoods.*

**Comment:**

The proposed land use has not taken into consideration the context and setting of the subject site in order to minimise the impact on the amenity of a low-density residential environment.

The development proposal in its current form, demonstrates undesirable planning outcomes as a result of the non-compliances to the relevant planning instruments, regulations and development control plan which are discussed within the report.

Therefore, Council does not consider the proposed development achieves the objectives of the R2 zone and refusal of the application is recommended.

The controls under Parramatta Local Environmental Plan 2011 are provided below:

Standards and Provisions	Compliance
<b>Part 1 Preliminary</b>	
<b>Cl. 1.2 Aims of Plan</b>	<p><b>Non-compliant</b></p> <p>Clause 1.2(2)(a) and (b) states:  <i>'to encourage a range of development, including housing, employment and recreation, that accommodates the needs of the existing and future residents, workers and visitors of Parramatta'</i>  <i>'to foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city'</i></p> <p>The development in its current form is inconsistent with the abovementioned aim of PLEP 2011.</p>
<b>Part 4 Principal development standards</b>	
<b>Cl. 4.3 Height of buildings</b>	<p><b>Complies</b></p> <p>Allowable = 9m  Proposed = 7m (RL53.64 – RL 46.64)</p>
<b>Cl. 4.4 Floor space ratio</b>	<p><b>Complies</b></p> <p>Allowable = 0.5:1 or 639.65m<sup>2</sup>  Proposed = 0.334:1 or 427.5m<sup>2</sup></p>
<b>Part 5 Miscellaneous provisions</b>	
<b>Cl. 5.1A Development on land intended to be acquired for public purposes</b>	The proposal is not identified on the map.
<b>Cl. 5.4 Controls relating to miscellaneous permissible uses</b>	These provisions do not apply to the development proposal.
<b>Cl. 5.6 Architectural roof features</b>	An architectural roof feature is not proposed.
<b>Cl. 5.7 Development below mean high water mark</b>	The proposal is not for the development of land that is covered by tidal waters.
<b>Cl. 5.10 Heritage conservation</b>	The subject site does not contain a heritage item, is not in the vicinity of an item and does not fall within a heritage conservation area.
<b>Part 6 Additional local provisions</b>	
<b>Cl. 6.1 Acid sulfate soils</b>	Yes, the site is identified as containing Class 5 Acid Sulfate Soil. An Acid Sulfate Soils Management Plan is not required to be prepared.
<b>Cl. 6.2 Earthworks</b>	<p><b>Does not comply.</b></p> <p>The proposed earthworks on result in large quantities of cut and fill on site.</p> <p>The majority of the proposed cut on site is for the excavation of the basement with some minor cut along the north and west boundary of up to 260mm. the proposed cut on site is acceptable.</p> <p>The Proposed fill on site is in the rear along the eastern boundary ranging from 0mm to 1140mm of fill. The proposed fill of 1140mm will resulting in a larger acoustic fence towards the eastern neighbour and impact on their visual amenity. The proposed fill is not supported.</p>
<b>Cl. 6.3 Flood planning</b>	The site is not identified to be flood prone.



<b>Cl. 6.4 Biodiversity protection</b>	The site is not identified on this map.
<b>Cl. 6.5 Water protection</b>	The site is not identified on this map.
<b>Cl. 6.6 Development on landslide risk land</b>	The site is not identified on this map.
<b>Cl. 6.7 Affected by a Foreshore Building Line</b>	The site is not located in the foreshore area.

## 10. Parramatta Development Control Plan 2011

The relevant matters to be considered under the Parramatta Development Control Plan 2011 (PDCP 2011) for the proposed development are outlined below.

The application has been assessed against the prescribed controls of *Table 3.1.3.1 Dwelling houses* of PDCP 2011 on merit as a guide to assess the suitability of the development on land zoned as R2 Low Density Residential.

<b>Control</b>	<b>Proposal &amp; Discussion</b>	<b>Compliance</b>
<b>Part 2 – Site Planning</b>		
<b>2.4 Site Considerations</b>		
<b>2.4.1 Views and Vistas</b>	The proposed development is not considered to obscure the significant topographical features of Parramatta.	Yes
<b>2.4.2 Water Management</b>	A Preliminary Site Investigation Report was submitted stating that the site potentially containing groundwater is low. Given the elevation of the site, it is unlikely that the excavation would encounter groundwater.	Yes
<b>2.4.3 Soil Management</b>	Adequate sediment and erosion control measures are proposed as part of this development and would have been included as conditions of consent should the application have been recommended for approval.	Yes
<b>2.4.4 Land Contamination</b>	The submitted preliminary site investigation report states that the contamination of soil and groundwater is low.	Yes
<b>2.4.5 Air Quality</b>	The proposed centre-based childcare centre is not considered to impact air quality.	Yes
<b>2.4.6 Development of sloping land</b>	The subject site slopes diagonally from the west-rear to the east-frontage. The proposal has been designed to take the slope of the site into consideration.	Yes
<b>2.4.7 Biodiversity</b>	The proposed centre-based childcare facility is not considered to affect significant vegetation.	Yes
<b>2.4.8 Public Domain</b>	The proposed development will consist of standard upgrading and maintenance works to the road verge. Should the application be approved, appropriate conditions may be imposed to ensure compliance.	Yes
<b>Part 3 – Development Principles</b>		
<b>3.1 Preliminary Building Envelope</b>		
<b>3.1.1 Height</b>	7m and 2 storeys proposed.	Yes
<b>3.1.3.1 Dwelling Houses</b>		
Minimum Front Setback: 5-9m, consistent with the prevailing setback along the street	The proposal has a front setback of 7.6m to Yates Avenue.	Yes
Minimum Side Setbacks: 2m (Section 5.2.3.2 of DCP 2011)	The side setbacks from the eastern and western boundary are 2m.	Yes
Minimum Rear Setback: Min. 30% of site length: 12.35m	A rear setback of 12.35m is proposed.	Yes
Landscaped Area: Minimum 40% (511.7m <sup>2</sup> ) with minimum dimension of 2m	The proposal provided 391.7m <sup>2</sup> of landscaped area. A non-compliance of 23.5% (120m <sup>2</sup> ). As the basement carparking protrudes into the rear setback and outdoor play area, the opportunity for landscaping reduces.	<b>No</b>

<p><b>&amp;</b> Deep Soil Zone: Minimum 30% (383.8m<sup>2</sup>) with minimum dimension of 4m</p>	<p>The proposal provided 372.3m<sup>2</sup> of deep soil area. A minor non-compliance of 3% (11.5m<sup>2</sup>). The minor variation is acceptable.</p>	<p>Yes</p>
<p><b>3.2 Building Elements</b> <u>3.2.1 Building Form and Massing</u></p> <p><u>3.2.2 Building Facades Articulation</u></p> <p><u>3.2.3 Roof Design</u></p> <p><u>3.2.4 Energy Efficient Design</u></p> <p><u>3.2.5 Streetscape Design</u></p> <p><u>3.2.6 Fences</u> P.10 Front fences are to be a maximum height of 1.2m. P.11 Where noise attenuation or protection of amenity requires a higher fence, front fences may be permitted to a maximum height of 1.8m and must be setback a minimum of 1m from the boundary to allow landscape screening to be provided.</p>	<p>The proposed building has been designed to take into consideration the topography, condition, and constraints of the site. The building form is considered acceptable.</p> <p>The proposed building design and architectural style is consistent with existing streetscape and locality.</p> <p>The proposed roof form appropriately responds to the contemporary design and the existing streetscape.</p> <p>The development is capable of achieving energy efficiency.</p> <p>A full and proper assessment cannot be completed regarding streetscape design as insufficient information has been provided regarding the front fence.</p> <p>Insufficient information has been provided regarding the front fence therefore a full and proper assessment cannot be completed.</p> <p>The proposed acoustic fences along the side and rear boundaries are 2.1m – 2.6m in height the excessive height will result in visual amenity impacts to neighbouring properties.</p>	<p>Yes</p> <p>Yes Yes</p> <p>Yes</p> <p><b>No</b></p> <p><b>No</b></p>
<p><b>3.3 Environmental Amenity</b> <u>3.3.1 Landscaping</u></p> <p><u>3.3.3 Visual and Acoustic Privacy</u></p>	<p>The proposal does not provide the required 40% landscaped area on the site as the basement carparking protrudes into the rear setback.</p> <p>The resulting noncompliance reduce the opportunities for natural planting and increases run off.</p> <p>The Parramatta DCP does specify where basement carparking extends beyond the building envelope, a minimum soil depth of 1.0m is to be provided, measured from the top of the slab to allow sufficient landscaping. The proposed landscaping in the rear could be further enhanced should design and layout configurations be incorporated.</p> <p>The proposed landscaping cannot be supported in its current form.</p> <p>The proposal satisfies the requirements for visual privacy. Refer to the assessment under Section 3.5 of the Child Care Centre Guidelines.</p> <p>The proposal does not provide sufficient acoustic amenity and privacy. Refer to the assessment under Section 3.5 <i>Visual and Acoustic Privacy</i> of the Child Care Centre Guidelines. Additionally, Council's Environmental Health – Acoustic Officer has reviewed the proposal and does not support the proposal. For additional information, refer to the comments in section 6.2 'Acoustic' of this report.</p>	<p><b>No</b></p> <p><b>No</b></p>

<u>3.3.4 Acoustic Amenity</u>	The proposal does impact on the acoustic amenity of the surrounding developments and Council's Environmental Health – Acoustic Officer does not support the proposal. For further information refer to the assessment of section 3.5 of the Childcare Centre Guidelines.	<b>No</b>
<u>3.3.5 Solar Access and Cross Ventilation</u>	The proposal achieves solar access and cross ventilation.	
<u>3.3.6 Water Sensitive Urban Design (WSUD)</u>	Council's Development Engineers are satisfied with the submitted stormwater plans.	Yes
<u>3.3.7 Waste Management</u>	The proposed on-going waste management for the childcare centre has been adequately addressed and is in accordance with <i>Section 9 of Council's Waste Management Guidelines for new Development Applications 2016</i> . Council's Environmental Health Officer has reviewed and supports the proposal. Conditions would have been imposed should the application have been recommended for approval.	Yes
<b>3.4 Social Amenity</b> <u>3.4.2 Access for People with Disabilities</u>	Council's Universal Access and Design Officer has reviewed the proposal and upon review, has noted that a comprehensive Draft Access Report by Vista Access Architects Pty Ltd has been provided.  The proposal could have been supported subject to conditions of consent requiring compliance with a finalised Vista Access Architects Pty Ltd report.	Yes
<b>3.5 Heritage</b>	The application is not identified as a heritage item or is located within a heritage conservation area.	N/A
<b>Part 5 – Other Provisions: Child Care Centres</b>		
<b>5.2.1 Development to which this section of the DCP applies</b>	The proposed development is a ' <i>centre-based child care facility</i> '.	Yes
<b>5.2.3 Planning Controls for Child Care Centres</b>		
<b>5.2.3.2 Child Care Centres in Residential Zones</b> <u><i>Building siting and design</i></u> Except where provided by this Section, the child care 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.  <u><i>On sites zoned Residential:</i></u> • The child care centre building is to be designed so as to appear as a dwelling house when viewed from the street.	The proposed childcare centre complies with the minimum street and side setback controls as discussed above.  The proposed childcare centre does present as a dwelling house, and when viewed from the street, the built form is considered to be compatible with the streetscape as it presents as a two-storey dwelling with adequate landscaping in the frontage. The proposal is acceptable in its presentation to the street.	Yes  <b>Yes</b>

<p>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.</p> <ul style="list-style-type: none"> <li>• The front setback area may only be used for access, parking and landscaping purposes, shall not be used as an outdoor play space and shall not be included in calculations of unencumbered outdoor space.</li> <li>• 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.</li> </ul> <p>Minimum indoor and outdoor space and maximum number of child care places</p> <p><b>Hours of operation</b> Hours of operation will be generally limited to between 7am and 7pm Monday to Friday.</p> <p><b>Landscaping</b> A landscape buffer with a minimum width of 1 metre shall be provided along the side and rear boundaries of the development.</p> <p>A landscaping setback abutting the street frontage with a minimum width of 2 metres shall be provided.</p>	<p>The front setback is used for only landscaping.</p> <p>The proposed play areas are all located on the same level.</p> <p>Minimum indoor and outdoor space have been considered under the SEPP and Childcare centre guidelines.</p> <p>Monday to Friday 7:00AM to 6:00PM</p> <p>The provided landscape plan indicates a buffer along the boundaries.</p> <p>The full front setback is used as a buffer and provides landscaping towards the street frontage.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>5.2.3.4 Access and Parking</b> <u>Car parking rates</u> On site car parking is to be provided at the rate of a minimum of 1 parking space per 4 child care places.</p>	<p>Required: 21 (20.75) parking spaces with 2 accessible parking space Proposed: Twenty-two (22) car parking spaces are provided with the inclusion of two (2) accessible car parking spaces.</p>	<p>Yes</p>

<p>Parking for people with a disability is to be provided at the rate of 1 space in every 10 spaces. If the car parking required is less than 10 spaces then at least 1 space must be provided.</p> <p><u>Vehicle circulation and car parking design</u> Required bicycle space: 4</p>	<p>4 bicycle parking spaces provided</p>	<p>Yes</p>
<p><b>5.2.3.5 Acoustic and Visual Privacy</b></p>	<p>Refer to the assessment of section 3.5 of the Childcare Centre Guidelines for acoustic privacy.</p> <p>The development is not considered to create privacy impacts onto the residential properties.</p>	<p><b>No</b></p>
<p><b>5.2.3.6 Indoor Areas</b></p>	<p>The proposal does not comply with the control. Refer to the assessment under the SEPP and Childcare centre guidelines for further information.</p> <p>Council's Environmental Health – Food Officer has reviewed the proposal and does not support the proposal. For additional information, refer to the comments in section 6.2 'Food' of this report.</p>	<p><b>No</b></p>
<p><b>5.2.3.7 Outdoor Areas</b></p>	<p>The proposal does not comply with the control. Refer to the assessment under the SEPP and Childcare centre guidelines for further information</p>	<p><b>No</b></p>

## 10. Development Contributions

As this Development Application was lodged on 11 June November 2022, the City of Parramatta (Outside of Parramatta) CBD Contributions Plan 2021 applies to the land. If the application had been recommended for approval, a standard condition of consent would have been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

## 11. Bonds

In accordance with Council's Schedule of Fees and Charges, the developer would have been obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition of consent would have been imposed 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 Conditions of consent should the application have 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 through noncompliance with the applicable planning instruments and controls. The acoustic amenity of the area would be impacted by the proposal along with the visual amenity of the immediate neighbours due to the excessively large acoustic fences. In an attempt to resolve one issue, another is created.

## 14. Suitability of the Site

The subject site can accommodate a development of a centre-based childcare and is considered to be located close to public transport links, services and facilities.

Suitable investigations and documentation have been provided to demonstrate that the site can be made suitable for the proposed development and the development is consistent with the land use planning framework for the locality.

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

The proposed development in its current form however fails to demonstrate a suitable proposal for the site and impacts on the amenity of the area.

## 15. Public Consultation

In accordance with the Parramatta Notification Plan, the Development Application was notified and advertised on one (1) occasion between 18 January 2023 until 9 February 2023. As a result of the notification period, twenty-seven (27) unique submissions were received. The issues raised in these submissions and Councils response are provided below.

Key concerns raised in the submissions are addressed below.

Issue	Response
<b>Traffic Concerns</b>	
One-way situation cause by parked cars on an already narrow avenue	The visitors to the Childcare centre are not expected to park on the street as there is sufficient off street parking in the basement.
Residential driveway delays as residents currently park in yards and driveways to alleviate traffic	Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.
Congestion near established schools and childcare centres	Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.
Construction workers will increase the traffic brought to the local area	Should the application have been recommended for approval, a construction traffic management plan would have been required.
<b>Safety/Hazards for children and pedestrians (8)</b>	
Increased risks due to heavy traffic flow	Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.
Frequent side-on collisions in the area	Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.
Lack of Child Safety Report	A child safety report is not required as part of a 4.15 assessment under the Environmental Planning and assessment act.
<b>Impact on biodiversity (3)</b>	
Removal of mature trees due to space constraints	The three trees located in the frontage are Liquidambar (Liquidambar styraciflua). Council's landscape officers have reviewed the proposal and raised no objection to the removal of those trees as they are not native species.
Disruption to local ecosystem and wildlife (Bird life, lizards and frogs frequent this area)	The site is not identified to contain critically endangered ecological communities.
<b>Parking and Site Capacity (10)</b>	
Inadequate parent parking spaces for 83 space childcare centre	The proposal provides the required number of carparking spaces with 1 surplus space.
Ingress/egress considerations missing in risk assessment	Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Yates Avenue, and the surrounding road network.
Proposed parking doesn't include staff parking	The proposed parking does include staff parking and is labelled on the parking plan.
Extended drop-off/pick-up times due to childcare nature	The proposal provides the required number of carparking spaces with 1 surplus space.
<b>Overshadowing Concerns (3)</b>	
Objector concerns about the height of proposed eastern fence	Council has raised the height of the acoustic fences as an issue in this report and makes up part of the reasons of refusal.
Objector concerns about the potential overshadowing of neighbouring properties	The north-south orientation of the site allows most of the overshadowing of the proposal to fall onto Yates Avenue.

<b>Privacy Concerns (2)</b>	
Privacy issues relating to sightlines from the proposed development	The proposed development does not create opportunities for overlooking and privacy impacts. The proposal transitions from a double storey building at the front to a single storey building at the rear, providing additional privacy to both the subject site and neighbouring properties.
<b>Noise Disturbances (2)</b>	
Anticipated increase in noise from proposed development	Council's Environmental Health – Acoustic Officer has reviewed the proposal and does not support the proposal. For additional information, refer to the comments in section 6.2 'Acoustic' of this report.
Anticipated increase in construction-related noise	Should the application have been recommended for approval, a standard condition of consent regarding construction times and noise levels would have been imposed.
Lack of acoustic measures in fencing	Council's Environmental Health – Acoustic Officer has reviewed the proposal and does not support the proposal. For additional information, refer to the comments in section 6.2 'Acoustic' of this report.
<b>Saturation of Childcare Centres (2)</b>	
Objector concerns about oversaturation of childcare centres in a 1km radius (5 established centres)	The site is with a 1km radius of 4-5 other childcare centres. The <i>State Environmental Planning Policy (Transport and Infrastructure) 2021- Chapter 3 Educational Establishment And Childcare Facilities</i> allows the development to be located at any distance from an existing or proposed early education and care facility.

## 16. Conclusion

The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposal is not consistent with the relevant requirements of the State Environmental Planning Policy (Transport and Infrastructure) 2021 Chapter 3 Educational Establishment and Childcare Facilities, Child Care Planning Guideline 2021, Parramatta Local Environmental Plan 2011, and the Parramatta Development Control Plan 2011.

Although the proposal is permissible with consent in the R2 Low Density Residential Zone, the proposal is not considered to result in a development, which is suitable on the site. Non-compliances are acknowledged within the current proposal; these have been discussed within this report. A merit assessment of the application has determined that the site is not suitable for a childcare centre in this current form.

Further, the proposal will not be satisfactory and results in unreasonable impacts to adjoining and surrounding properties, with regard to streetscape design, acoustic and landscaping. The amenity impacts on surrounding properties are not reasonable based on a residential area and the built form envisaged by the controls. This assessment shows the proposed increase in traffic would not compromise the efficient function of the local road network.

The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant State and local planning controls. On balance, the proposal demonstrates an unsatisfactory response to the objectives and controls of the applicable planning framework. The proposal is not suitable for the site and is not in the public interest. As such, the application is recommended for refusal.

## 17. Recommendation

### REFUSAL

Pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*:

(a) **That** the Parramatta Local Planning Panel (PLPP), exercising the functions of Council, **refuse** development consent to DA/7/2023 for the amalgamation of two separate land parcels, tree removal, demolition of existing structures and construction of a two storey 83 place centre-based childcare facility with 22 parking spaces on the lower ground floor at 7 Yates Avenue, Dundas Valley for the following reasons:

- State Environmental Planning Policy (Transport and Infrastructure) 2021 and Child Care Planning Guideline August 2017**

- a. Pursuant to Sections 4.15(1)(a)(i) and (b) of the *Environmental Planning and Assessment Act 1979*, the development proposal does not meet compliance with Clause 3.26 *Centre based childcare – non-discretionary development standard*. The proposal fails to provide the required areas for unencumbered indoor and outdoor space.
- b. Pursuant to Sections 4.15(1)(a)(i) and (b) of the *Environmental Planning and Assessment Act 1979*, the development proposal does not meet compliance and/or consist of insufficient information to determine its compliance with *Part 3 Matters for consideration* and *Part 4 Applying the National Regulations to development proposals* of the *Child Care Planning Guideline August 2017* with respect to the following:
  - Site selection and location;
  - Local character, streetscape and the public domain interface;
  - Building orientation, envelope and design;
  - Landscape;
  - Visual and acoustic privacy;
  - Indoor space requirements
  - Storage space requirements;
  - Toilet and hygiene facilities;
  - Administrative space;
  - Effective building design to facilitate supervision of children;
  - Emergency and evacuation procedures;
  - Outdoor space requirements; and
  - Fencing.

## 2. Parramatta Local Environmental Plan 2011

- a. Pursuant to Section 4.15(1)(a)(i), (b) and (c) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not meet compliance and/or consist of insufficient information to determine its compliance to the following matters of the *Parramatta Local Environmental Plan 2011*:
  - i. Clause 1.2(2)(h) – Aims of Plan: The development fails to ensure that development does not detract from the operation of local or regional road systems.
  - ii. Clause 6.2 – Earthworks: The development propose excessive fill on site that impacts on the amenity of neighbouring properties.

## 3. Parramatta Development Control Plan 2011

- a. Pursuant to Section 4.15(1)(a)(iii), (b) and (c) of the *Environmental Planning and Assessment Act 1979*, the proposed development does not meet compliance and/or consist of insufficient information to determine its compliance to the following sections of the *Parramatta Development Control Plan 2011*:
  - i. Sections 3.1.1 and Table 3.1.3.1: The proposal does not provide the required area for landscaping.
  - ii. Section 3.2.5: Due to insufficient information regarding the front fence, a full and proper assessment on the streetscape design could not be completed.
  - iii. Section 3.2.6: The proposed acoustic fences along the side and rear boundaries (as indicated in the Environmental Noise Impact Assessment Report) are excessive in height, generates undesirable visual impacts and does not provide a positive interface between private domains.
  - iv. Section 3.3.3: The submitted acoustic report provides insufficient information and does not adequately address the impacts of the proposal on neighbouring properties. The recommendations in the report impact on the efficient operation of the centre.
  - v. Section 5.2.3.5: The proposal does not provide sufficient information in the acoustic report for Council's experts to properly assess the acoustic amenity impacts of the development.
  - vi. Section 5.2.3.6: The proposal does not provide sufficient information to properly calculate indoor play areas and for Council's experts to properly assess areas for safe food preparation.
  - vii. Section 5.2.3.6: The proposal does not provide sufficient information to properly calculate indoor play areas and for Council's experts to properly assess areas for safe food preparation.



**4. Operational Matters**

- a. Pursuant to Section 4.15(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, a detailed Operational Plan of Management and a detailed evacuation management plan were submitted but not adequate and therefore the potential impacts of the development proposal onto the surrounding properties cannot be adequately assessed.

**5. Suitability of the site**

- a. Pursuant to Section 4.15(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, the site is not considered suitable for the proposed development.
- b. Pursuant to Section 4.15(1)(d) and (e) of the *Environmental Planning and Assessment Act 1979*, the adverse impacts generated by the development due to non-compliance with the applicable planning controls is not beneficial within the development site or to the established residential community and as such, it is not considered to be in the wider public interest.

**6. Submissions**

- a. Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the issues raised in the submissions demonstrate that the proposed development cannot be supported in its current form.