



City of Parramatta	
File No:	DA/424/2023

SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

DA No:	DA/424/2023
Subject Property:	Lots 26 DP 225990, 1 Tracey Avenue, CARLINGFORD NSW 2118
Proposal:	Demolition of existing structures, tree removal and construction of a 74 place two-storey childcare centre over basement parking.
Date of receipt:	20 July 2023
Applicant:	Design & Building Group Pty Ltd
Owner:	1Tracey Pty Ltd
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	Thirty (30) unique submissions
Conciliation Conference Held:	No
Recommendation:	Refusal
Assessment Officer:	George Anderson

Legislative Requirements

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• Parramatta Local Environmental Plan 2023 (PLEP 2023)• Parramatta (former The Hills) Local Environmental Plan 2019 (PLEP 2012)• The Hills Development Control Plan 2012 (THDCP 2012)
Zoning	R2 Low Density Residential
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	No
Clause 4.6 variation	No
Delegation	Parramatta Local Planning Panel (PLPP) due to receiving 10 or more unique submissions during the notification period.

1. Executive Summary

The subject site is located on the corner of Murray Farm Road and Tracey Avenue and is known as 1 Tracey Avenue, Carlingford. The legal description of the site is Lot 26 DP 225990. The subject site is located on a rectangular shaped corner allotment to Tracey Avenue and Murray Farm Road.

The application seeks approval for demolition of existing structures, tree removal and construction of a 74 place two-storey childcare centre over basement parking.

Council has received notice that the applicant has lodged a Deemed Refusal Appeal with the Land and Environment Court on 23 October 2023.

The applicant lodged a deemed refusal prior to the issue of a request for additional information by Council.

The issues with the current proposal arise from the provision or required areas for built form, bulk and scale, accessibility, deep soil, streetscape and character, cut and fill, fencing, pedestrian safety, unencumbered outdoor and indoor play space area, soil assessment, shade, premises facilitating supervision, landscaping, amenity, parking, stormwater, contamination and acoustics.

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

The application was notified/advertised and received thirty (30) unique submissions within the notification period. The issues raised related to traffic movement and congestion, amenity, safety, and security, overshadowing, privacy and acoustic. A petition with twenty-seven signatures was lodged in support of the proposal.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application No. DA/424/2023 be refused.

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

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 1 Tracey Avenue, CARLINGFORD NSW 2118 (Lot 26 DP 225990). The site is on the corner of Murray Farm Road and Tracey Avenue. The site has an area of 941.2m², comprising of 32.005m to Murray Farm Road and 21.445m² to Tracey Avenue. The site has an approximate cross fall from the south-western corner of the site and to the site's north-eastern corner of the site.

The site currently accommodates a split-level dwelling house setback from the street frontage. The site is located within an area zoned as R2 Low Density Residential under Parramatta Local Environmental Plan 2023. The surrounding properties are also zoned R2 Low Density Residential.

The locality is within close proximity to educational establishments, Beecroft and North Rocks town centres, Beecroft station and Parramatta Light Rail Network with a station at Carlingford. Bus stops along Oaks Road connects the town centres and Beecroft Railway station.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in **Figures 1 – 4** below.



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

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

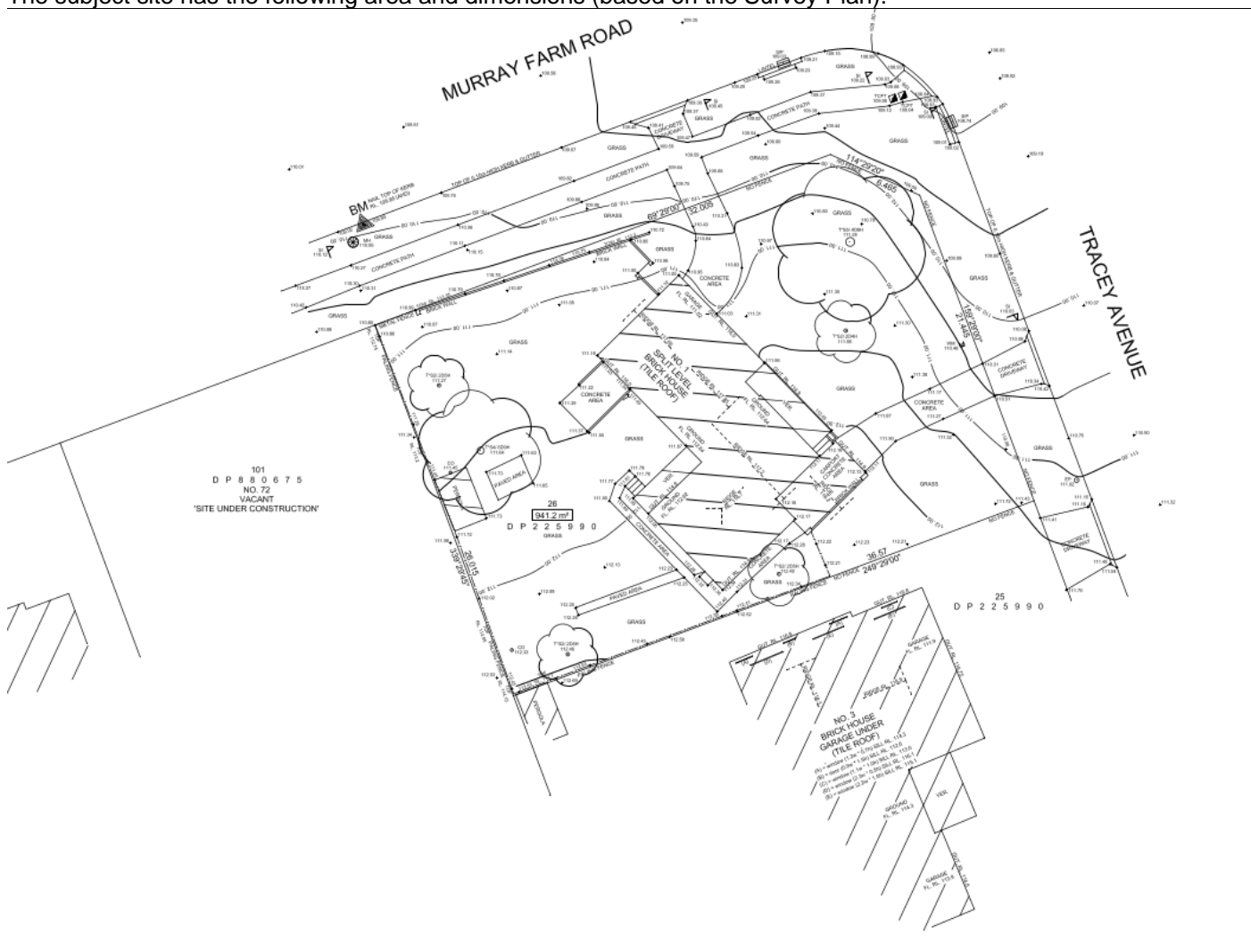


Figure 2: Survey Plan (S.J Surveying Services Pty Ltd, 9 December 2022)

Area	941.2m ²
Murray Farm Road	32.005 metres
Tracey Avenue	21.445 metres
Southern Side Boundary	36.57 metres
Western Side Boundary	26.015 metres



Figure 3: Subject site viewed from 1 Tracey Avenue. (Site inspection, 11 October 2023)

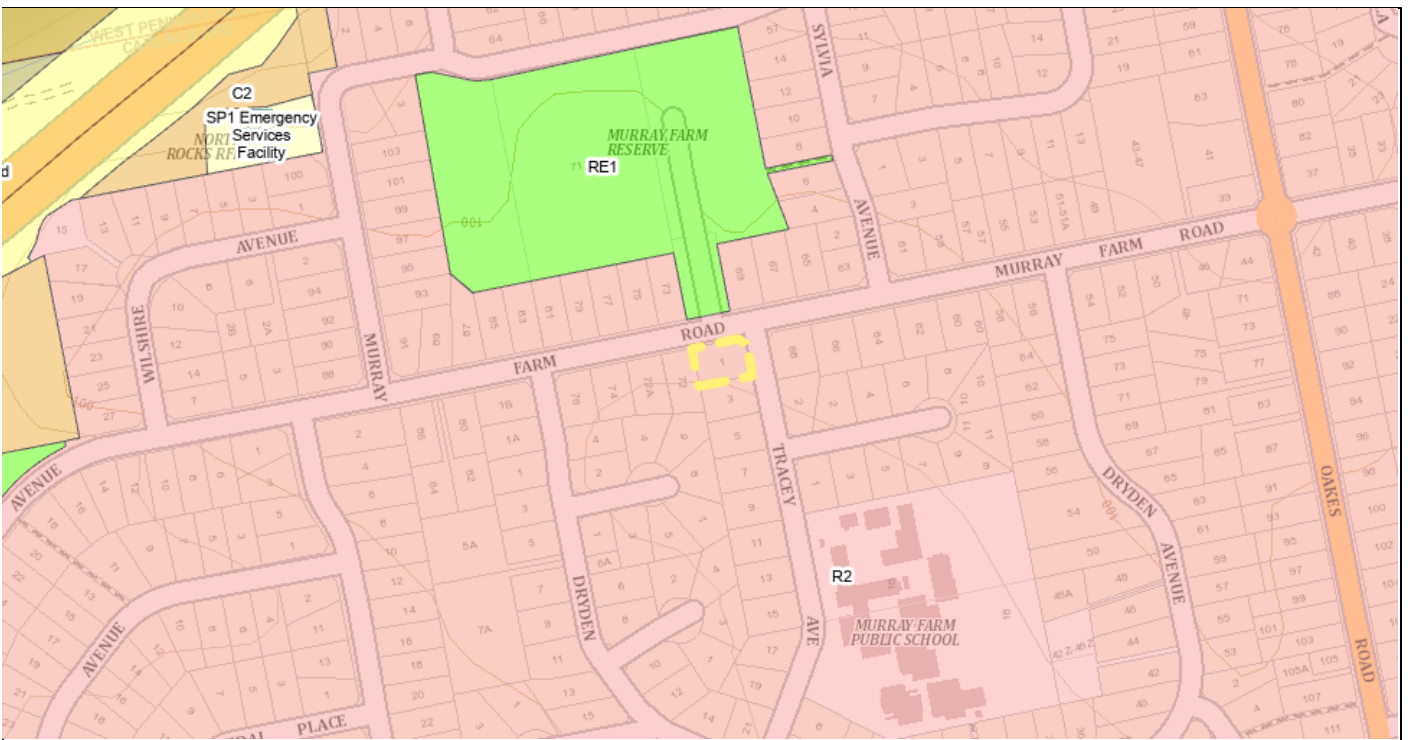


Figure 4: Zoning map (NSW Spatial Viewer)

3. Relevant Site History

The table below shows the application history for the site:

Date	Comment
20 July 2023	DA/424/2023 was lodged with Council and is the subject of this report.

4. The Proposal

Development Application DA/424/2023 was lodged on 20 July 2023 for a 74-place childcare centre. Specifically, the application seeks approval for:

- **Demolition of all existing structures**
- **The removal of 6 trees within the subject site**
- **Construction of a two-storey centre-based childcare centre**
The childcare centre is a two-storey development with associated basement car parking.

Hours of Operation

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

Number of Children

0-1 years old – 8 children (minimum 2 staff required)

1-2 years old – 16 children (minimum 4 staff required)

2-3 years old – 20 children (minimum 4 staff required)

3-6 years old – 30 children (minimum 3 staff required)

Total: 74 children (max.)

Number of Staff

Thirteen (13) staff are proposed to be working at any time and will be divided amongst the age groups.

Parking Spaces

A total of nineteen (19) car parking spaces are proposed in the basement with the following allocations:

- 11 staff car parking spaces; and
- 8 visitor car parking spaces including 1 accessible compliant space and 1 visitor space which doubles as a delivery space outside peak usage times.

Bicycle

- 2 bicycle parking spaces

Waste

A waste storage area located within the south-east corner of the building. A private contractor will be engaged for collection and removal between 10am and 2pm to ensure no conflict the main times for a parent/guardian accessing drop off and pick up times.

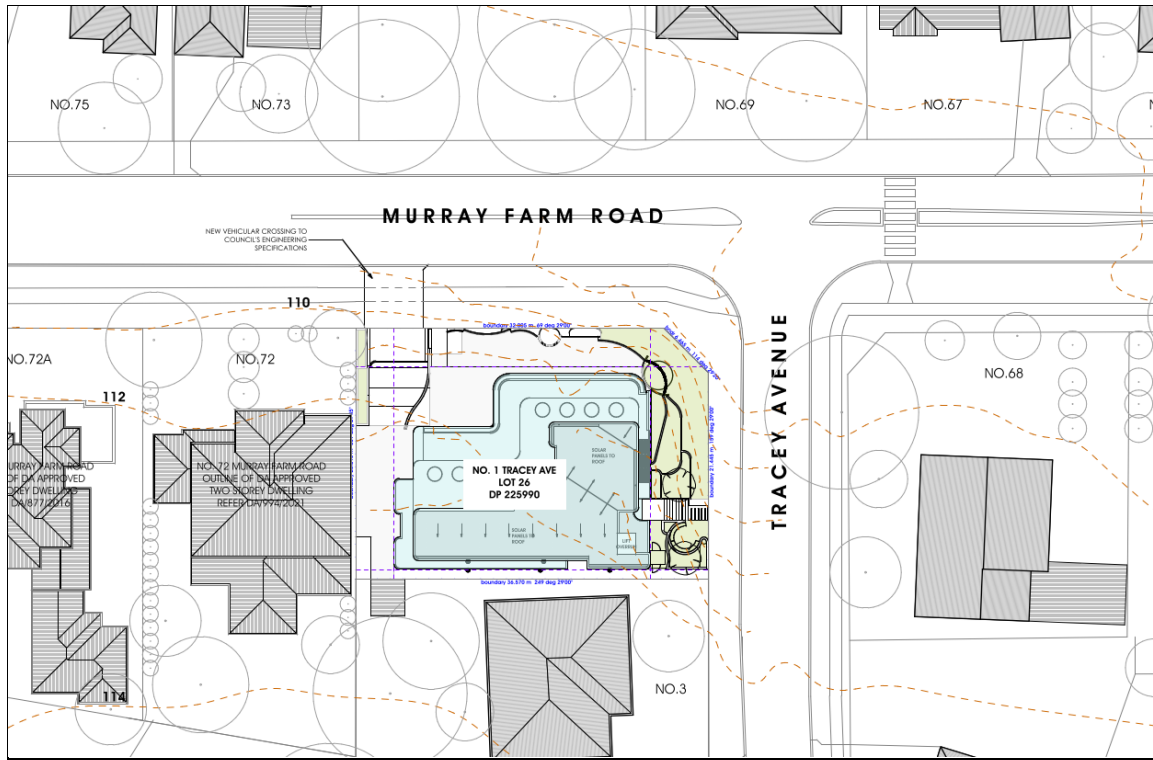


Figure 5: Site Plan (Design and Building Group)

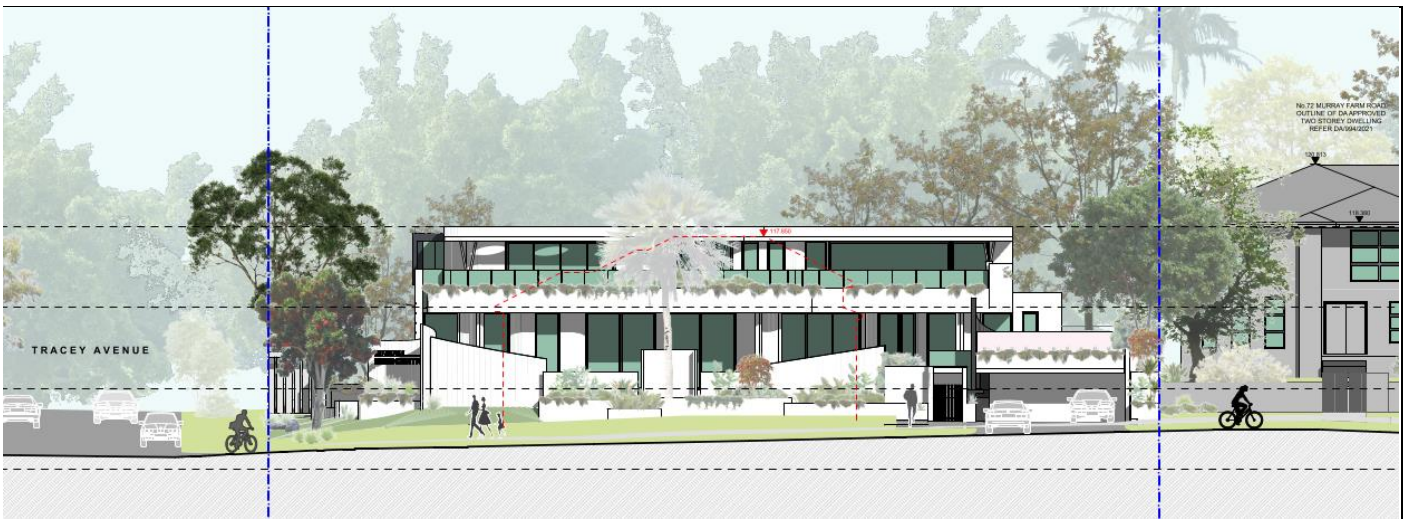


Figure 6: (North) Elevation (Design and Building Group)



Figure 7: (East) Elevation (Design and Building Group)

5. Relevant Application History

Date	Comment
20 July 2023	DA/424/2023 was lodged for the Demolition of existing structures, tree removal and construction of a 74 place two-storey childcare centre over nineteen (19) parking spaces.
31 July 2023 – 21 August 2023	The application was notified to the neighbouring properties and advertised with a sign on the site as per Council's Consolidated Notification Requirements.
25 August 2023	The application was referred to the Design Excellence Advisory Panel (DEAP).
23 October 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.

Internal Team	Comments
6.1 Development Engineer	<p>Not Supported</p> <p>A review of stormwater plans has been undertaken and additional information is required prior to engineering approval being granted. Amended Stormwater Plans indicate OSD grates within Child play area which Council does not support. OSD shall be relocated so that OSD grates are outside the play area and made inaccessible to children.</p>
6.2 Environmental Health (Acoustic)	<p>Not Supported</p> <p>Based on the analysis of the information submitted by the applicant, the proposed development cannot be supported due to insufficient information.</p> <p><u>Additional information was required to enable a full and proper assessment as per below:</u></p> <ul style="list-style-type: none"> - A revised Acoustic assessment is required based on current established noise related criteria and guidelines - The current Acoustic report makes incorrect reference to Liverpool City Council DCP 2012 - A revised Acoustic assessment is required considering Section 3, subsection 3.5 Visual and Acoustic privacy - The development proposes operating hours of 7am to 6pm as it follows. However, staff will arrive prior to 7am resulting in sleep disturbance from maximum noise level events and from vehicles during 6:30am to 7:00am to be considered as per NPI Section 2.5 - The Acoustic report should address the maximum noise level and the extent to which the maximum noise level exceeds the rating background noise level and the number of times it happens during the nighttime period and

	<ul style="list-style-type: none"> - A Noise Management Plan should be developed and implemented to provide effective noise control measures.
6.3 Environmental Health (Food)	At the time of writing this report, comment remains outstanding.
6.4 Environmental Health (Waste)	The proposal satisfies the requirements of Council's controls and can be supported subject to standard conditions of consent.
6.5 Environmental Health (Contamination)	<p>Not Supported</p> <p>Based on the findings of the preliminary investigation, the site should be investigated by the way of a Detailed Site Investigation. The proposal does not satisfy the requirements of Council's controls and cannot be supported.</p> <p>A Phase 2 detailed investigation of the potential for contamination of the land carried out in accordance with the "Managing Land Contamination Planning Guidelines" (see Clause 4.6 of SEPP).</p>
6.6 Landscape and Tree Assessment	<p>Not Supported</p> <p>Based on the analysis of the information submitted by the applicant, the proposed development cannot be supported due to insufficient information.</p> <p><u>Additional information was required to enable a full and proper assessment as per below:</u></p> <ul style="list-style-type: none"> - The outdoor play areas require 1m buffer screening plants to the inside periphery. This must not be counted in the unencumbered outdoor play space calculations. - There should be no play areas to the front setback. - Some planting has been proposed which is inappropriate and is to be replaced. - Trees are to be relocated away from the Stormwater pipes.
6.5 Traffic and Transport	<p>Not Supported</p> <p>Based on the analysis and information submitted by the applicant, the proposed development cannot be supported on Traffic grounds for the below reason:</p> <p>The proposed development falls under the Hills DCP 2012 which requires that the development provides 13 spaces for staff and 13 spaces for visitors. However, as the proposal only includes 19 spaces, it has a shortfall on 7 spaces.</p> <p>In order to justify the shortfall, the Traffic report refers to the TfNSW Guide to Traffic Generating Developments 2002 which recommends a rate of 1 space per 4 children and the TfNSW Survey 2015 (TEF Report) which recommended a rate of 1 space per 6 children for centres with 70 to 100 children. However, it should be noted that both the referenced materials are guides only and do not take precedents over the DCP rates. Furthermore, the TEF only surveyed 1 Long Day Care Centre within a low-density residential area, and it is unclear if this survey included the number of visitors parking on-street.</p> <p>Further consideration is given to the site context where there is a nearby primary school and two other proposals for childcare centres. As such, it is considered that the proposed development must be able to provide sufficient parking spaces within the premises and should not rely on on-street parking.</p> <p>It is recommended that the applicant undertake a survey of a similar sized childcare centre within a low-density environment and close to the proposed facility in order to justify the shortfall of parking spaces. The survey should consider the maximum number of staff that will likely be driving to work and what the peak visitor parking requirements would be.</p> <p>Alternatively, the applicant can reduce the number of children attending the childcare centre such that the parking provision is compliant with the Hills DCP.</p>
6.6 Universal Access and Design	Not Supported

	<p>Based on the analysis of the information submitted by the applicant, the proposed development cannot be supported due to insufficient information. The following was noted:</p> <p><i>The proposed number of childcare places is greatly impacting the design and amenity outcomes of the proposal. Capacity numbers should be reduced to ensure a built form compatible with the area and the delivery of a high-quality childcare facility.</i></p> <p><i>The applicant is requested to amend the design as per the comments above and resubmit the DA drawings and details addressing and showing compliance of above issues.</i></p> <p><u>Additional information was required to enable a full and proper assessment as per below:</u></p> <ol style="list-style-type: none"> 1. The applicant is requested to seek expert access advice. 2. Increase the size of the lift. 3. Address to set of stairs on the southern egress path. 4. Provide accessible access to both areas of the western play areas. 5. Provide direct access from playroom 3 to the western play areas. 6. Consideration for a WC on the entry level. 7. Ensure low level door thresholds are provided. 8. Ensure the reception desk provides accessible features. 9. Ensure equipment and furniture within common areas provide suitable features for a person with a mobility impairment.
6.7 Design Excellence Advisory Panel (DEAP)	Refer to the discussion below in Section 6.7.
External Agency	Comments
Endeavour Energy	No objection – Subject to the imposition of recommended conditions.
Sydney Water Corporation	No objection – Subject to the imposition of recommended conditions.
	<p><i>Comment</i> <i>Maintenance structures located within the property boundary will need to be protected/access maintained. Adjustments/Deviations to the 150mm wastewater main traversing the site may be required.</i></p>

6.7 Design Excellence Advisory Panel (DEAP)

The development application was referred to the Design Excellence Advisory Panel (DEAP) on 24 August 2023. The Panel concluded that the proposal could not be supported and provided the following comments below. Council's Planner has responded to each comment.

1. *The Panel commends the comprehensive preparation for this DA submission undertaken regarding site and context analysis, siting, concept resolution (including a review of various massing options), landscaping potential and resolution of potential conflicts on adjacent properties. As a result, the Panel is confident that the design should be compatible with the residential context.*

Planners comment: Council has conducted a thorough assessment of the proposal and a number of issues remain outstanding with the design of the proposal.

2. *Sustainability aims including ESD measures, a recycle hub and provision for battery storage were also agreed as positive intentions for the proposal. It was noted that a FSR exceedance may require a small reduction in the childcare capacity proposed, and that could also resolve the apparent shortfall in parking requirements. Further work is recommended to address this, and to review the extent of hard landscape elements incorporated in the setback from Murray Farm Road as noted below.*

Planners comment: Council agrees with DEAP comment that the application can reduce the scale of the design to increase required landscaping area, specifically along both street frontages.

3. *For a corner location in this R2 zone, the proposed site layout and 2 storey configuration makes a bold modernist façade statement that appears quite commercial and does not appear very sympathetic with the immediate residential context. The built form could be improved with some reconsideration of the roof form to be more*

compatible with the neighbouring houses (eg. skillion or low pitched) and also help resolve visual and acoustic amenity issues with location of any services such as AC condensers at roof level.

Planners comment: Council agrees with the DEAP's comment. The large scale of the proposal has resulted in a poor outcome considering the residential context and a built form that is not integrated into the streetscape or locality.

4. *While the childcare configuration over two levels is well planned, the proposed stair and chair lift for pedestrian access from Tracey Ave on the south-east corner would not be an optimum outcome for use with prams or anyone with mobility issues. An alternative ramp layout is recommended – perhaps from the south east corner, which is higher in the topography - so that access could be more aligned to the ground floor and space allocated within the landscape area for a pram bay with perimeter seating for casual social encounters.*

Planners comment: Council agrees with DEAP's comment, and that pedestrian access from Tracey Avenue can be improved to facilitate mobility and accessibility.

5. *Safety and amenity issues could be caused by some parents choosing to park on the Tracey Avenue kerbside for drop off, which is a common habit. As there is currently no footpath along the western side of Tracey Avenue, the applicant should liaise with Council officers to improve the public domain access to the childcare entry and consider potential to provide street trees on the nature strip.*

Planner's comment: Council agrees with DEAP's comments and a 1.5m wide concrete footpath is to be constructed along the boundary of Tracey Avenue connecting to the footpath along Murray Farm Road. Street trees are required in the verge to match 8m – 10m spacing.

6. *While the interior spaces appear well planned, they could be improved through the introduction of colour and playful elements to stimulate and excite the children, thereby enhancing their levels of joy and interaction. There is also scope to introduce some playful and visually stimulating elements and more organic forms externally, so as to animate the internal circulation and transition spaces (ref: UTS childcare – Blackfriars St. Chippendale).*

Planner's comment: Council agrees with DEAP's comment and the proposal requires improvements.

7. *While toilet area layouts appear adequate and accessible, the sight lines into the ambulant toilet behind reception does not afford much privacy and the door location should be revised.*

Planner's comment: Council agrees with the DEAP's comment, and the internal sightlines of the proposal requires improvements.

8. *The materials selection should also be reviewed, perhaps integrating brickwork in lieu of rendered and painted masonry, that may not prove as durable in the longer term with maintenance or potential graffiti issues. This approach would be more in character with the neighbourhood context.*

Planner's comment: Noted.

9. *While the Panel appreciates the extensive landscape input to visualisation of ground floor outdoor play space with CGI imagery, greater consideration is needed for fall safety and sun shading while balancing visual and acoustic privacy for neighbours with the amenity and security for children. The perimeter enclosure for outdoor play areas appears quite convoluted with substantial solid elements that could be better integrated in a landscaped solution. Sections at critical locations for the boundary wall interface with the public domain should be included to clarify how these concerns will be dealt with.*

Planner's comment: Council agrees with DEAP's comments and there are outstanding issues in relation to landscaping and the outdoor area that require improvement.

10. *The Panel strongly recommends that the landscape architect address the landscape and public domain improvements raised in Items 4,5 and 9 to enhance the overall amenity and aesthetic presentation of the project. The landscape representation in the CGIs indicate somewhat spotty tree canopy. There should be greater consideration for the shape, location and size of the overall canopy to create an integrated landscape setting for the building and prominent corner site, Larger trees may be more appropriately located within the verge as street trees.*

Planner's comment: Refer to the planner comment in comment 10.

11. *Inclusion of the solar PV array on the roof is commendable, but a full electrification strategy for the building is recommended along with other ESD measures like EV charging, ceiling fans to assist natural ventilation and rainwater tanks for landscape irrigation.*

Planner's comment: Noted.

12. *Assuming A/C is to be included the condensers must be located out of sight from the street or adjacent buildings and with acoustic enclosures. Any other building services should be clearly indicated and appropriately screened.*

Planner's comment: Council agrees with DEAP's comments.

13. **Panel Recommendation**

The Panel recommends that further design development be carried out in a revised proposal that responds to the issues noted above.

Planner's comment: Noted.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2023 (PLEP 2023)
- The Hills Development Control Plan 2012 (THDCP 2012)

Comments with these instruments is addressed below.

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

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural of the State, and to preserve the amenity of the 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 Landscaping Officer has reviewed the application and raised no objections to the removal of the vegetation from the site.

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

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

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

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

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it

suitable for the proposed use and if it is not suitable, can be remediated to standard such that it will be made suitable for the proposed use.

The site is not identified in Council’s records as being contaminated. A site investigation has been lodged with insufficient information to adequately satisfy the requirements of Council’s controls and cannot be supported. Council requires the following information to be included in the site inspection:

- A Phase 2 detailed investigation of the potential for contamination of the land carried out in accordance with the “*Managing Land Contamination Planning Guidelines*” (see Clause 4.6 of SEPP).
- A site audit statement reviewing the Phase 2 detailed investigation to be prepared by an independent NSW EPA accredited auditor for contaminated land. This site audit statement is to be submitted with the Phase 2 report.

Given the current information provides insufficient information a proper assessment cannot be conducted by Council to determine in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the land is suitable for the proposed development being a childcare centre. Were the application recommended for approval, standard and special conditions relating asbestos, site audit statement, site investigation and contamination would be incorporated into a notice of determination.

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

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

CLAUSE	COMMENT
Clause 2.48 – Electricity infrastructure	<p>The subject site is in the vicinity of electricity powerlines along the eastern boundary and is located within 5m of an exposed overhead electricity power line.</p> <p>The application has been referred to Endeavour Energy providing comment on 11 August 2023.</p> <p>The Landscape Concept Plan proposing planting of trees to the Tracey Avenue frontage located in the front setback will interfere with overhead power lines and is opposed by Endeavour Energy.</p> <p>The minimum required safety distances and controls for a building or structures and working near overhead power lines must be maintained at all times.</p>
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>Murray Farm Road</i> has an average daily traffic volume of less than 20,000 vehicles per day. As such, clause 102 is not applicable to the development application.
Clause 2.122 – Traffic-generating development	<p>The proposal does not generate more than 200 motor vehicles per hour and is not a site with access to a classified road or to a road that connects to a classified road.</p> <p>The proposed Childcare centre on Murray Farm Road does not trigger Clause 2.122.</p>

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

Standards and Provisions	Compliance
Part 3.3 Early Education and Care Facilities – Specific Development Controls	

<p>CI.3.22 Centre based childcare facility – concurrence of Regulatory Authority required for certain development</p>	<p>Would have been required.</p> <p>The application does not seek approval for a departure to regulate 107 (indoor unencumbered space requirements) or Regulation 108 (outdoor unencumbered space requirements) of the Childcare Planning Guidelines.</p> <p>However, Council requires the outdoor play area to incorporate further landscaping and relocation out of the front boundary setback which would inevitably mean the proposal would not satisfy the requirements of Regulation 107 and Regulation 108. Council had not yet issued a request for further information; however, this would have been requested. For further information, refer to the assessment under Clause 3.26 of this table.</p>
<p>CI 3.24 Centre based childcare facility in Zone IN1 or IN2</p>	<p>N/A</p> <p>The subject is not zoned as IN1 General Industrial or IN1 Light Industrial.</p>
<p>CI 3.25 Centre based childcare facility – Floor Space Ratio</p>	<p>Yes</p> <p>Control = 0.5:1 or 470.6m² Proposed = 0.49:1 or 469.47m²</p>
<p>CI 3.26 Centre based childcare facility – non-discretionary development standard</p>	<p>Does not comply</p> <p><u>Location</u> – The site is with a 1km radius of 10 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.</p> <p><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 indoor play space 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 are calculations.</p> <p>Number of children: 74 Minimum unencumbered space required: 240.5m². Total unencumbered space proposed: 247.79m².</p> <p>No – The proposal does not comply with 3.25m² of unencumbered indoor space provided for each child. The proposal does not include the provision of storage lockers and a full assessment cannot be completed. Any details of the provision of storage lockers would need to be excluded from the calculations.</p> <p><u>Outdoor Space</u> – The proposal requires a minimum of 518m² of outdoor unencumbered space of 74 children under Regulation 108 of Guidelines. The proposal provides sufficient outdoor play areas of 529.30m².</p> <p>Number of children: 74 Minimum unencumbered space required: 518m². Total unencumbered space proposed: 529.30m².</p> <p>No – The design does not incorporate a sufficient landscaping buffer and maintains outdoor play space in the front setback. These aspects require a redesign and result in the outdoor play space to be under the required Regulation 108 of Childcare Planning Requirements and a full assessment of unencumbered outdoor play space cannot be completed.</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>- Notwithstanding the provisions, Council's Urban Designer notes that the colour schedule of the development is incompatible on the streetscape.</p> <p>Note: Non-discretionary development standards subject of this clause have not been complied with and will be used as a basis for refusal of this application.</p>

Compliance with Child Care Planning Guideline 2021

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

Provisions	Comment
Part 2 – Design Quality Principles	
Principle 1 – Context	<p>The subject site is considered an appropriate location for the proposed childcare centre for the following reasons:</p> <ul style="list-style-type: none"> • The site has adequate vehicular access via Murray Farm Road. The site also provides pedestrian access from the designated car parking spaces to the building. • The site is within close proximity to public transport and employment nodes. • It should be noted that the site is approximately 79m walking distance from Murray Farm Reserve, 679m from North Rocks Tennis Centre and 1000m from North Roack Netball Courts. The site is 6km to Bull Bush Hotel, a licensed premises located at 378 Windsor Road, Baulkham Hills. • The site is not a battle-axe allotment or located in a cul-de-sac and is not adjacent to an arterial road. • The proposal is not within proximity to any intensive, offensive and hazardous land uses. The predominant land uses within the surrounding locality generally comprises residential uses. <p>The proposal does meet the requirements of principle 1 – Context.</p>
Principle 2 – Built Form	<p>The proposed built form exceeds the scale of nearby dwelling by proposing large outdoor play areas on balcony type structures and is additionally inconsistent with the proposed future built form of the area.</p> <p>The subject site consists of two street frontages and shares boundaries with two (2) residential properties, to the south and the west. With the proposed noncompliance regarding the outdoor play space area, the scale of the proposal would be considered unsuitable for the site. With two (2) residential properties sharing a boundary with the subject site, the impacts created by the proposal are greater, with consideration to the insufficient acoustic assessment. Acoustic impact is considered detrimental along the western property boundary where the outdoor play area directly adjoins the dwelling next door.</p> <p>The development is non-compliant with THDCP 2012 setback requirements and maintains outdoor play area located within the front setback of the site. The proposed childcare maintains a dominant built form addressing Murray Farm Road and Tracey Avenue which will cause unnecessary bulk. Further to this, the proposal incorporates a large front fence creating bulk to the street.</p> <p>The proposal does not meet the requirements of principle 2 – Built form.</p>
Principle 3 – Adaptive Learning Spaces	<p>The subject site has been assessed on its adaptive learning spaces. It is noted that the proposed indoor space would facilitate adequate learning spaces for children and staff that are fit-for-purpose, enjoyable and easy to use. It is acknowledged that the proposed use is likely to offer a variety of settings, technology and opportunities for interaction.</p> <p>The proposal does meet the requirements of principle 3 – Adaptive Learning Spaces</p>
Principles 4 – Sustainability	<p>Due to the orientation of the site, the indoor and outdoor play areas will receive a sufficient amount on sunlight. The ground floor and first floor indoor playrooms have multiple windows allowing for natural ventilation.</p> <p>It is noted that the sustainable measures imposed are considered appropriate. Council's Environmental Health Officer has no objection subject to conditions of consent.</p> <p>The proposal does meet the requirements of principle 4 – Sustainability</p>

Principle 5 – Landscape	<p>The proposal lacks sufficient landscaping that would result in an attractive development and does not make outdoor spaces assets for learning. The child care centre is required to facilitate further landscaping to the outdoor play areas requiring 1m buffer screening plants to the inside periphery. Some of the current species of landscaping is considered inappropriate and should be replaced to plant more appropriate landscaping. Trees are to be relocated away from the Stormwater pipes and plant species should incorporate appropriate height to the overhead powerline.</p> <p>Additionally, the proposal does not contribute to the landscape character of the area but has been identified to be detrimental to the existing locality.</p> <p>The proposal does not meet the requirements of principle 5 – Landscape.</p>
Principle 6 – Amenity	<p>The internal amenities of the proposal contribute to effective surveillance of the development, The proposal achieves good amenity or contribute to positive learning environments and the well-being of children and staff.</p> <p>The proposal does the requirements of principle 6 – Amenity.</p>
Principle 7 – Safety	<p>The childcare centre has clearly defined public and private spaces with controlled access for parents and children.</p> <p>The proposal has included an evacuation management plan which does indicate a meeting point. If the development were to be supported this could be conditioned prior to occupational certificate.</p> <p>The proposed levels of play areas on the First Floor Plan contribute to effective surveillance of the development. Windows to the Playroom, Staff Room, and Manager Room provides effective Crime Prevention Through Environmental Design (CPTED) to the streetscape.</p> <p>The proposal does meet the requirements of principle 7 – Safety</p>

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
Part 3 – Matters for consideration	
3.1 Site selection and location	
<p>C1 For proposed developments in or adjacent to a residential zone, consider:</p> <ul style="list-style-type: none"> • The acoustic and privacy impacts of the proposed development on the residential properties; • The setbacks and siting of buildings within the residential context; • Traffic and parking impacts of the proposal on residential amenity. 	<p>No – 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.</p> <p>No – The setbacks are not considered acceptable for a residential allotment. The Hills DCP 2011 states a rear setback is to be 6m for 1-2 storeys. Amended plans are required with a minimum 2m for child care centres with a 1m buffer.</p> <p>All structures on site including play space are to provide a minimum 1m wide densely landscaped setback from side boundaries incorporating trees and shrubs. Note this area cannot be included in total outdoor play area required for unencumbered outdoor play space.</p> <p>Yes– Council’s Traffic & 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 excavation. This results in a poor design outcome for the users of the child care centre.</p> <p>DOES NOT COMPLY</p>
<p>C2 When selecting a site, ensure that:</p> <ul style="list-style-type: none"> • The location and surrounding uses are compatible with the proposed development or use; • The site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards; • There are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed; • The characteristics of the site are suitable for the scale and type of development proposed having regard to: <ul style="list-style-type: none"> ○ size of street frontage, lot configuration, dimensions and overall size; ○ number of shared boundaries with residential properties; and ○ the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas; • There are suitable drop off and pick up areas, and off and on street parking; • The type of adjoining road (for example classified, arterial, local road, cul-de-sac) is appropriate and safe for the proposed use; • It is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises. 	<p>Yes – In its current form, the development is considered to be compatible with the surrounding residential properties.</p> <p>Yes – The site is not subject to these risks and hazards.</p> <p>Insufficient – The proposal has been lodged with a detailed site investigation providing insufficient information to adequately satisfy the requirements of Council's controls and cannot be supported.</p> <p>No – The subject site consists of two street frontages and shares boundaries with two (2) residential properties, to the south and the west. With the proposed noncompliance regarding the outdoor play space area, the scale of the proposal would be considered unsuitable for the site. With two (2) residential properties sharing a boundary with the subject site, the impacts created by the proposal are greater, with consideration to the insufficient acoustic assessment. Acoustic impact is considered detrimental along the western property boundary where the outdoor play area directly adjoins the dwelling next door.</p> <p>No – The application seeks approval for basement carparking. The proposal only includes 19 spaces and has a shortfall of 7 spaces. Traffic is based on TfNSW Guide to Traffic Generating Developments 2002 and does not consider precedents over the DCP rates. The applicant is required to provide a survey of similar sized childcare centres in a low-density environment and close to the facility to justify the shortfall. The proposal will generate less than 1 vehicle trip per minute. The proposed Traffic generation is considered acceptable. Council's Traffic and Transport Investigations Engineer raised concerns with regards to the parking impacts on the local area (parking). For additional information, refer to the traffic and transport comments in section 6.5 of this report.</p> <p>Yes – Council's Traffic & Transport Investigations Engineer did not raise any concerns with regards to the traffic generation on the local area. For additional information, refer to the traffic and transport comments in section 6.5 of this report.</p> <p>Yes – The site is not located closely to incompatible social areas. It should be noted that the site is approximately 79m walking distance from Murray Farm Reserve, 679m from North Rocks Tennis Centre and 1000m from North Roack Netball Courts. The site is 6km to Bull Bush Hotel, a licensed premises located at 378 Windsor Road, Baulkham Hills. It is not considered that the Hotel's operation would have impacted on the childcare centre.</p> <p>DOES NOT COMPLY</p>

<p>C3 A child care facility should be located:</p> <ul style="list-style-type: none"> • Near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship; • Near or within employment areas, town centres, business centres, shops; • With access to public transport including rail, buses, ferries; and • In areas with pedestrian connectivity to the local community, businesses, shops, services and the like. 	<p>Yes – The site is within the vicinity of Murray Farm Public School and Muirfield High School. The site is within proximity to Carlingford Court, North Rocks Shopping Centre and local parks/reserves. Bus stops with services from Beecroft to North Rocks town centres and Beecroft railway station. The site will be within the future Parramatta Light Rail Network.</p>
<p>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from:</p> <ul style="list-style-type: none"> • Proximity to: <ul style="list-style-type: none"> ○ heavy or hazardous industry, waste transfer depots or landfill sites; ○ LPG tanks or service stations; ○ water cooling and water warming systems; ○ odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses; ○ extractive industries, intensive agriculture, agricultural spraying activities; and • Any other identified environmental hazard or risk relevant to the site and/ or existing buildings within the site. 	<p>Yes – 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>
<p>3.2 Local character, streetscape and the public domain interface</p>	
<p>C5 The proposed development should:</p> <ul style="list-style-type: none"> • Contribute to the local area by being designed in character with the locality and existing streetscape; • Reflect the predominant form of surrounding land uses, particularly in low density residential areas • Recognise predominant streetscape qualities, such as building form, scale, materials and colours; • Include design and architectural treatments that respond to and integrate with the existing streetscape; • Use landscaping to positively contribute to the streetscape and neighbouring amenity; and • Integrate car parking into the building and site landscaping design in residential areas. 	<p>No – The site is located within a predominately low-density residential area. Whilst the development has been designed as a two-storey built form, parts of the design are inconsistent with the residential presentation found within the street and locality. The proposed childcare centre has a built form that is not compatible with the desired future character of the area. The proposal should be amended to include similar articulation, bulk, form and materiality of the surrounding buildings within the locality.</p> <p>DOES NOT COMPLY</p>
<p>C6 Create a threshold with a clear transition between public and private realms, including:</p> <ul style="list-style-type: none"> • Fencing to ensure safety for children entering and leaving the facility; • Windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and connection between the facility and the community; and • Integrating existing and proposed landscaping with fencing. 	<p>No – The proposed fence ranges from 1.5m – 3.02m with significant height along the street frontage. The boundary fence will have a maximum of 3.02m creating a bulk to the street from the neighbours natural ground level reducing visual amenity. The combination of the acoustic wall along the western property boundary results in non-compliance and unsuitability having unreasonable impacts on the neighbouring residents.</p> <p>Windows from the development face Murray Farm Road and Tracey Avenue, provides passive surveillance to the street.</p> <p>Insufficient landscaping has not been proposed withing the front setback to both street frontages of the proposal or to the western property boundary.</p>

	DOES NOT COMPLY
C7 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.	Yes – The development provides two pedestrian entries and a vehicular entry to the building on site.
C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions: <ul style="list-style-type: none"> • Clearly defined street access, pedestrian paths and building entries; • Low fences and planting which delineate communal/ private open space from adjoining public open space; and • Minimal use of blank walls and high fences. 	N/A – The development does not adjoin a public park, open space or bushland.
C9 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.	No – The front fence is proposed to be constructed of Hebel Power Panels, ranging from 1.6m to 3.02m. The front fence is not considered to be constructed of a visually permeable material or treatment. DOES NOT COMPLY
C10 High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	N/A – The subject site does not adjoin a classified road.
3.3 Building orientation, envelope, and design	
C11 Orient a development on a site and design the building layout to: <ul style="list-style-type: none"> • Ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by: <ul style="list-style-type: none"> ○ Facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties; ○ Placing play equipment away from common boundaries with residential properties; ○ Locating outdoor play areas away from residential dwellings and other sensitive uses; • Optimise solar access to internal and external play areas; • Avoid overshadowing of adjoining residential properties; <ul style="list-style-type: none"> • Minimise cut and fill; 	<p>No – The building layout attempts to direct noise and overlooking impacts away from the surrounding neighbouring properties. The outdoor play area is located on both the Ground Level and First Floor Level orientated towards Murray Farm Road and Tracey Avenue. The location of the outdoor play area is located at the front of the proposal and with the proposed U-shape, a buffer is predominantly provided to neighbouring properties.</p> <p>The western side boundary has an interface with one residential development. The outdoor play area that addresses the western boundary consists of outdoor play area with limited landscaping. The development proposes an Acoustic fence of 2.56m solid boundary fence along this boundary to protect residential receivers from the acoustic impacts of the facility. However, a solid wall of 2.56m conflict with a standard fence height creating issues of bulk along this boundary. This has not been addressed by the applicant.</p> <p>The provided play equipment appears to be located along the western property boundary and a storage facility encouraging outdoor play area within this section of the site adjoining a common boundary and reduces acoustic privacy.</p> <p>The building has optimised on solar access to both internal and external play areas. The proposal is not considered to be in character considering residential built form and does create unreasonable over shadowing to neighbouring properties due to its orientation.</p> <p>Yes – The majority of the proposed cut on site is for the excavation of the basement. The excavation for the basement car parking is considered to be in keeping with the character and scale of the areas.</p>

<ul style="list-style-type: none"> • Ensure buildings along the street frontage define the street by facing it; and • Ensure that where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions. 	<p>Yes - The building does face the street.</p> <p>Yes - The outdoor play area is located on the first-floor level and provide variation setback incorporating a glass balustrade which provides protection from the wind and climatic conditions.</p> <p>DOES NOT COMPLY</p>
<p>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</p> <ul style="list-style-type: none"> • Building height should be consistent with other buildings in the locality; • Building height should respond to the scale and character of the street; • Setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility; • Setbacks should provide adequate access for building maintenance; and • Setbacks to the street should be consistent with the existing character. 	<p>No – The development has been designed as a two storey building. However, the building envelope, in particular the uncharacteristic front, side and rear setbacks result in the incompatibility of the development on the streetscape and local character. Further to the design the proposal presents as a commercial building and does not give context to the existing developments on the street whilst also exacerbating visual bulk of the building when viewed from the street.</p> <p>DOES NOT COMPLY</p>
<p>C13 Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use.</p>	<p>N/A – The site does not front a classified road.</p>
<p>C14 On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house.</p>	<p>No – The proposal does not satisfy the prevailing front and required setbacks for the area.</p>
<p>C15 <i>The built form of the development should contribute to the character of the local area, including how it:</i></p> <ul style="list-style-type: none"> • <i>respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</i> • <i>contributes to the identity of the place</i> • <i>retains and reinforces existing built form and vegetation where significant</i> • <i>considers heritage within the local neighbourhood including identified heritage items and conservation areas</i> • <i>responds to its natural environment including local landscape setting and climate</i> <p><i>contributes to the identity of place</i></p>	<p>No Contextually, existing developments in the surrounding area are detached residential dwellings. The proposal appears excessive in comparison to the existing developments. The insufficient landscaping exacerbate the built form and dominant roof form to the streetscape.</p>
<p>C16 Entry to the facility should be limited to one secure point which is:</p> <ul style="list-style-type: none"> • located to allow ease of access, particularly for pedestrians • directly accessible from the street where possible • directly visible from the street frontage • easily monitored through natural or camera surveillance • not accessed through an outdoor play area. • in a mixed-use development, clearly defined and separate from entrances to other uses in the building. 	<p>Yes – A separate access is provided to the childcare centre and is visible from Tracey Avenue.</p>
<p>C17 Accessible design can be achieved by:</p>	<p>No – Council’s Universal Access and Design Officer has reviewed the proposal and upon review, does not support the</p>

<ul style="list-style-type: none"> • Providing accessibility to and within the building in accordance with all relevant legislation; • 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; • 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 • Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath. <p>NOTE: The <i>National Construction Code</i>, the <i>Discrimination Disability Act 1992</i> and the <i>Disability (Access to Premises – Buildings) Standards 2010</i> set out the requirements for access to buildings for people with disabilities.</p>	<p>development in its current form. Accordingly, the proposal cannot be supported.</p>
<p>3.4 Landscaping</p>	
<p>C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</p> <ul style="list-style-type: none"> • Reflecting and reinforcing the local context; and • Incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping. 	<p>No –The proposed landscaping plan is insufficient and cannot be supported. The outdoor play areas require 1m buffer screening plants to the inside periphery along the boundary. This must not be counted in the unencumbered outdoor play space calculations. There should be no play areas in the front setback. Some planting has been proposed which is inappropriate and is to be replaced. Trees are to be relocated away from the Stormwater pipes.</p>
<p>C19 Incorporate car parking into the landscape design of the site by:</p> <ul style="list-style-type: none"> • Planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings; • Taking into account streetscape, local character and context when siting car parking areas within the front setback; and • Using low level landscaping to soften and screen parking areas. 	<p>N/A – The proposed car parking is in the basement.</p>
<p>3.5 Visual and acoustic privacy</p>	
<p>C20 Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.</p>	<p>N/A – The proposed development is not located in a mixed-use development. The existing adjoining developments will not overlook the facility.</p>
<p>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</p> <ul style="list-style-type: none"> • Appropriate site and building layout; • Suitably locating pathways, windows and doors; and • Permanent screening and landscape design. 	<p>No – the proposal’s site and layout do not allow direct overlooking of indoor rooms and outdoor play spaces from public areas. The permanent screening provided results in issues of bulk to adjoining lots and can be alleviated by landscaping.</p>
<p>C22 Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</p> <ul style="list-style-type: none"> • Appropriate site and building layout; • Suitable location of pathways, windows and doors; and • Landscape design and screening. 	<p>No – 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 with the outdoor play area to the front of the site integrating into a two storey dwelling. The proposal will be screened by the boundary fence and acoustic walls to the outdoor play area while the First Floor Level will utilise high sill windows protecting privacy to the south. The proposal will provide</p>

	<p>additional privacy to the subject site and the adjoining neighbours.</p> <p>The permanent screening provided results in issues of bulk to adjoining lots and can be alleviated by landscaping.</p>
<p>C23 A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</p> <ul style="list-style-type: none"> • 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 • Ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure. 	<p>No – An acoustic fence, 2.6m wall and a 1.8m solid barrier along the western boundary, is proposed along the side to protect the acoustic amenity of adjoining residential properties.</p> <p>However, the proposed acoustic wall 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. 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>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</p> <ul style="list-style-type: none"> • Identify an appropriate noise level for a child care facility located in residential and other zones; • Determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use; and • Determine the appropriate height of any acoustic fence to enable the noise criteria to be met. 	<p>No – 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>3.6 Noise and air pollution</p>	
<p>C25 Adopt design solutions to minimise the impacts of noise, such as:</p> <ul style="list-style-type: none"> • Creating physical separation between buildings and the noise source • Orienting the facility perpendicular to the noise source and where possible buffered by other uses • Using landscaping to reduce the perception of noise sources • Using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • Using materials with mass and/or sound insulation or absorption properties, such as solid balcony, external screens and soffits • Locating cot rooms, sleeping areas and play areas away from external noise sources. 	<p>No – The outdoor play area is enclosed by a fence that is ranging from 1.5m to 3.02m high. The fence will incorporate an acoustic wall along the western property boundary of significant height which will create detrimental impacts to the adjoining property.</p> <p>The Acoustic Report has provided insufficient information regarding the proposal to undertake an assessment and provides incorrect assessment criteria.</p>
<p>C26 An acoustic report should identify appropriate noise levels for sleeping areas and other non-play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</p> <ul style="list-style-type: none"> • On industrial zoned land • Where the ANEF contour is between 20 and 25, consistent with AS 2021-2000 • Along a railway or mass transit corridor, as defined by State Environmental Planning Policy (infrastructure) 2007 • On a major or busy road 	<p>N/A – The site is not located on industrial land, subject to an ANEF contour, adjacent to a railway corridor or a major/ busy road.</p>

<ul style="list-style-type: none"> Other land that is impacted by substantial external noise. 	
<p>C27 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>N/A – The site is not located on a major road or within the proximity to industrial development.</p>
<p>C28 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"> 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 Using landscaping to act as a filter for air pollution 	<p>N/A – An air quality assessment report is not required.</p>
<p>3.7 Hours of operation</p>	
<p>C29 Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.</p>	<p>Yes – The proposed hours of operation complies. Monday to Friday: 7AM to 6PM</p>
<p>C30 Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.</p>	<p>N/A – The site is not within mixed use areas.</p>
<p>3.8 Traffic, parking, and pedestrian circulation</p>	
<p>C31 Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.</p> <p>The Parramatta DCP 2011 specifies a parking rate of: <i>1 space per 4 children & 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>No – Nineteen (19) car parking spaces are provided with the inclusion of one (1) accessible car parking space.</p> <p>Does not comply.</p>
<p>C32 In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.</p>	<p>N/A – The site is not located in a commercial or industrial zone.</p>
<p>C33 A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> The amenity of the surrounding area will not be affected; and There will be no impacts on the safe operation of the surrounding road network. 	<p>Yes – The application was accompanied by a Parking & Traffic Impact Assessment report.</p> <p>Council's Traffic and Transport team considers the estimated increase in traffic is acceptable and will not cause negative impact on Murray Farm Road, and the surrounding road network.</p> <p>Refer to Section 6.5 of this assessment report for detailed discussion.</p>

<p>C34 Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> • A classified road; and • Roads which carry freight traffic or transport dangerous goods or hazardous materials. <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> • The prevailing traffic conditions; • Pedestrian and vehicle safety including bicycle movements; and • The likely impact of the development on traffic. 	<p>N/A – 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>C35 Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>N/A – The site is not located within a cul-de-sac.</p>
<p>C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</p> <ul style="list-style-type: none"> • Separate pedestrian access from the car park to the facility; • Defined pedestrian crossings included within large car parking areas; • Separate pedestrian and vehicle entries from the street for parents, children and visitors; • Pedestrian paths that enable two prams to pass each other; • Delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities; • 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 • Vehicles can enter and leave the site in a forward direction. 	<p>No – The current design, does not allow for safe pedestrian access as the entrance is separate from the carparking. Separate pedestrian access from the car park to the facility could be conditioned if the proposal were to be supported.</p>
<p>C37 Mixed use developments should include:</p> <ul style="list-style-type: none"> • Driveway access, manoeuvring areas and parking areas for the facility that are separate to parking and manoeuvring areas used by trucks; • 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 • Parking that is separate from other uses, located and grouped together and conveniently located near the entrance or access point to the facility. 	<p>N/A – The development is not a mixed use development.</p>
<p>C38 Car parking design should:</p> <ul style="list-style-type: none"> • Include a child safe fence to separate car parking areas from the building entrance and play areas; • Provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards; and 	<p>Yes – Car parking design with regard to these specific requirements is satisfactory.</p>

<ul style="list-style-type: none"> • Include wheelchair and pram accessible parking. 	
Part 4 – Applying the National Regulations to development proposals	
4.1 Indoor space requirements	
<p>Regulation 107 Education and Care Services National Regulations Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p>	<p>No (Insufficient Information) – The proposal does comply with 3.25m² of unencumbered indoor space provided for each child.</p> <p>Number of children: 74 Minimum unencumbered space required: 240.5m². Total unencumbered space proposed: 247.79m².</p> <p>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>Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1).</p> <p>Storage Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> • A minimum of 0.3m³ per child of external storage space; and • A minimum of 0.2m³ per child of internal storage space. 	<p>N/A – The proposal does not include a verandah as indoor space.</p> <p>Required: External storage space – 22.2m³ Internal storage space – 14.8m³</p> <p>Provided: External storage space – 12.5m³ Internal storage space – 7.45m³ (plus 10.2m³ overhead storage)</p> <p>Note - overheard storage has not been provided with dimensions and an incorrect calculation has submitted.</p> <p>No – The proposed Architectural Plans indicate the proposal achieves the requirement of 22.2m³ external storage space however, the plans cannot be measured due to incorrect scales. Therefore, a full assessment cannot be completed to determine if the development is satisfactory.</p> <p>No – The proposed Architectural Plans indicate the proposal provides internal storage space however, the plans cannot be measured due to incorrect scales. Further to this the dimensions regarding overhead storage space has not been included to conduct a full assessment. Therefore, a full assessment cannot be completed to determine if the development is satisfactory.</p>
4.2 Laundry and hygiene facilities	
<p>Regulation 106 Education and Care Services National Regulations There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	<p>Yes – A laundry room is provided on the first floor. This room is contained so as not to pose a risk to children.</p>
4.3 Toilet and hygiene facilities	
<p>Regulation 109 Education and Care Services National Regulations 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</p>	<p>Yes – Sufficient information has been provided to indicate junior toilet pans, low level sinks and hand drying facilities. Windows into bathrooms for supervision have been implemented or identified.</p>

<p>location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the <i>National Construction Code</i>.</p>	
<p>4.4 Ventilation and natural light</p>	
<p>Regulation 110 Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. 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>Yes – Sufficient windows have been provided to allow for a satisfactory amount of ventilation. The orientation of the site allows for significant solar access.</p>
<p>4.5 Administrative space</p>	
<p>Regulation 111 Education and Care Services National Regulations A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Yes -</p> <p>A Director/Reception sign in desk is provided at the access point of the facility of the Ground Level.</p> <p>A Mangers 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 been provided on the Ground Level.</p> <p>A Staff Program area capable of facilitating a document storage area is 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>
<p>4.6 Nappy change facilities</p>	
<p>Regulation 112 Education and Care Services National Regulations Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i>.</p>	<p>Yes – 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 0-1 year olds, 1-2 year olds and 3-6 year olds.</p>
<p>4.7 Premises designed to facilitate supervision</p>	
<p>Regulation 115 Education and Care Services National Regulations 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>Yes – Details demonstrating compliance to the design guidance of Section 4.7 of this guide has been provided.</p> <p>The architectural plans include internal windows proposed for supervision and surveillance of the proposed areas.</p>
<p>4.8 Emergency and evacuation procedures</p>	

<p>Regulations 97 and 168 Education and Care Services National Regulations</p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> • Instructions for what must be done in the event of an emergency; • An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and • A risk assessment to identify potential emergencies that are relevant to the service. 	<p>Yes – An evacuation diagram has been submitted for assessment showing the evaluation floor plan which is considered sufficient.</p>
<p>4.9 Outdoor space requirements</p>	
<p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> • Pathway or thoroughfare, except where used by children as part of the education and care program; • Car parking area; • Storage shed or other storage area; • Laundry; and • Other space that is not suitable for children. <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children’s play (refer to Figures 9 and 10).</p>	<p>No (Insufficient Information)– The proposal does not comply with 3.25m² of unencumbered outdoor space provided for each child.</p> <p>Number of children: 74 Minimum unencumbered space required: 518m². Total unencumbered space proposed: 522.27m².</p> <p>However, the proposal requires alterations to the unencumbered outdoor play area to facilitate landscaping provisions that will reduce the outdoor play area. Therefore, the outdoor play area does not comply.</p>
<p>4.10 Natural environment</p>	
<p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p>No – The proposed outdoor space on the Ground Level 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 outdoor space located on the First Floor lacks sufficient natural features that would make outdoor spaces assets for learning.</p> <p>Further, the Ground Level does not incorporate adequate landscaping and proposes outdoor play area in the front setback and western boundary. The proposal is capable of landscaping and that space is considered unsuitable for children. This results in no outdoor play spaces having natural landscaping.</p>
<p>4.11 Shade</p>	
<p>Regulation 114 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>No</p> <p>Required – 282.36m² or 30% Provided shade area – 229m² or 24.3%</p> <p>The shaded areas are not evenly distributed throughout the proposal.</p> <p>Accordingly, the proposal cannot be considered for support.</p>

4.12 Fencing																
<p>Regulation 104 Education and Care Services National Regulations</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>Yes – The outdoor play area is enclosed by an enclosed barrier fence ranging from 1.5m to 3.02 high. The fence will consist of hebel power panels. The fence will incorporate an acoustic fence along the western boundary.</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>															
4.13 Soil assessment																
<p>Regulation 25 Education and Care Services National Regulations</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"> • A soil assessment for the site of the proposed education and care service premises; • 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 • 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. 	<p>No – The applicant has submitted a preliminary investigations report which lack sufficient information to determine if the site is contaminated.</p> <p>Council's records do not indicate the site would be contaminated.</p>															
Relevant regulation not addressed in Child Care Planning Guideline August 2021																
Educator to child ratios-centre based services																
<p>Regulation 123 Education and Care Services National Regulations</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>Yes – The Statement of Environmental Effects states that 13 staff will be provided for the childcare centre.</p> <table border="1"> <thead> <tr> <th>Age Group</th> <th>No. of Children</th> <th>Minimum Educators Required</th> </tr> </thead> <tbody> <tr> <td>0 – 1 years</td> <td>8</td> <td>2</td> </tr> <tr> <td>1-2 years</td> <td>16</td> <td>4</td> </tr> <tr> <td>2-3 years</td> <td>20</td> <td>4</td> </tr> <tr> <td>3-6 years</td> <td>30</td> <td>3</td> </tr> </tbody> </table> <p>Regulation 122 of <i>Education and Care Services National Regulations</i> states 'An educator cannot be included in calculating the educator to child ratio of a centre-based service unless the educator is working directly with children at the service'.</p> <p>If 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 – 1 years	8	2	1-2 years	16	4	2-3 years	20	4	3-6 years	30	3
Age Group	No. of Children	Minimum Educators Required														
0 – 1 years	8	2														
1-2 years	16	4														
2-3 years	20	4														
3-6 years	30	3														

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

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 2023 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 the City of Parramatta in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- 2) *The particular aims of this Plan are as follows—*
 - (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (a) to protect and enhance the identity, diversity and viability of Parramatta City Centre and recognise its role in the Central River City of the Six Cities Region,*
 - (b) to create an integrated, balanced and sustainable environment that contributes to environmental, economic, social and physical wellbeing,*
 - (c) to identify, conserve and promote the City of Parramatta's natural and cultural heritage,*
 - (d) to protect and enhance the natural environment, including urban tree canopy cover and areas of remnant bushland,*
 - (e) to ensure development occurs in a way that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependent ecosystems,*
 - (f) to encourage ecologically sustainable development,*
 - (g) to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
 - (h) to improve public access along waterways if the access does not adversely impact the natural value of the waterways,*
 - (i) to improve public access to, and within, the City of Parramatta and facilitate the use of public transport, walking and cycling,*
 - (j) to encourage a range of development to meet the needs of existing and future residents, workers and visitors,*
 - (k) to enhance the amenity and characteristics of established residential areas,*
 - (l) to retain the predominant role of industrial areas,*
 - (m) to ensure development does not detract from the economic viability of commercial centres,*
 - (n) to ensure development does not detract from the operation of local or regional road systems.*

For reasons stated throughout this report, it is considered that the development does not satisfactorily meet the aims of the plan. In particular, the proposal does not encourage a range of development that accommodates the needs of the existing and future residents, workers, and visitors of Parramatta. 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 Zone Objectives are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain the low density residential character of the area.*
- *To ensure non-residential land uses are carried out in a way that minimises impacts on the amenity of a low density residential environment.*
- *To provide a range of community facilities that serve the needs of people who live in, work in and visit the area.*
- *To protect and enhance tree canopy, existing vegetation and other natural features.*

Comment:

The proposal has 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 compliances to the relevant planning instruments, regulations and development control plan which are discussed within the report.

Council considers the proposed development achieves the objectives of the R2 zone. However due to other non-compliances with controls and lack of information provided the proposal has been recommended for refusal.

The controls under Parramatta Local Environmental Plan 2023 are provided below:

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings	Complies Allowable = 9m Proposed = 6.65m (RL118.250 – RL 111.60)
Cl. 4.4 Floor space ratio	Complies Control = 0.5:1 or 470.6m ² Proposed = 0.49:1 or 469.47m ²
Part 5 Miscellaneous provisions	
Cl. 5.1A Development on land intended to be acquired for public purposes	The proposal is not identified on the map.
Cl. 5.4 Controls relating to miscellaneous permissible uses	These provisions do not apply to the development proposal.
Cl. 5.6 Architectural roof features	An architectural roof feature is not proposed.
Cl. 5.7 Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.
Cl. 5.10 Heritage conservation	The subject site does not contain a heritage item, is not in the vicinity of an item and does not fall within a heritage conservation area.
Part 6 Additional local provisions	
Cl. 6.1 Acid sulfate soils	No, the site is not identified as containing any Class of Acid Sulfate Soil. An Acid Sulfate Soils Management Plan is not required to be prepared.
Cl. 6.2 Earthworks	Due to the proposed basement, the excavation on site reaches a maximum depth of approximately 4m below natural ground level. In this instance, the level of cut is considered acceptable. The proposed cut will provide a minimum clearance height of 2.5m to the basement carpark. The majority of the proposed cut on site is for the excavation of the basement proposing setbacks of approximately 0.7m to the western property boundary and 1m to the southern boundary. Further to this the excavation primarily matches the building line slightly exceeding along the eastern frontage and is located within the front setback. The excavation does minimise or take appropriate measures to minimise impacts to adjoining lots and is considered minor in nature.
Cl. 6.3 Biodiversity protection	The site is not identified on this map.
Cl. 6.5 Stormwater Management	The site is not identified on this map.
Cl. 6.6 Foreshore Area	The site is not located in the foreshore area.
Cl. 6.8 Landslide risk	The site is not identified on this map.

10. The Parramatta (former The Hills) Development Control Plan 2012

PART B SECTION 6 BUSINESS		
CONTROL	PROPOSED	COMPLIANCE
2.34 Centre Based Child Care Facilities – Additional Controls		
(a) Other relevant Sections of the DCP (i.e. Part B Section 2 – Residential) should be consulted with regards to setbacks, depending on the nature and location of the development.	The proposal does not satisfactorily address all matter pertaining to Part B – Section 2 – Residential. These matters are assessed further in the report.	No
(d) Consideration is to be given to the Building Code of Australia with regards to the fire resistance of walls of the child care centre (and the openings on the walls) facing side and rear boundaries.	Conditions would have been imposed to ensure that the development is compliant with NCC requirements.	Noted.
(e) Setbacks for childcare centre car parking areas:	Parking is located within the basement.	N/A

Residential zones Minimum 5 metre setback from the front property boundary.		
(f) The front setback areas are to include landscaping with a minimum width of two metres to screen vehicles from view from the street and surrounding properties.	Parking is proposed in the basement and therefore would not require screening from view of the street and surrounding properties.	N/A
(g) Side boundary setbacks to car parking areas are to be in accordance with Part C Section 1- Parking and the relevant Sections of the Development Control Plan as outlined in (a) above.	Parking is proposed in the basement.	N/A
(h) The location of external child play areas in the front setback area is not permitted.	The proposal does seek outdoor play area in the front setback forward of the building and is not supported in the current form.	No
(j) Landscaping along the primary and secondary frontages is to include a combination of ground covers, large trees, shrubs, and grass planting and is to provide high-quality landscaping for the development. Landscaping shall be established prior to the occupation of the building.	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(k) Trees and shrubs shall be provided alongside and rear boundaries to screen outdoor play areas	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(l) Food preparation areas in a child care centre must comply with: <ul style="list-style-type: none"> • Food Act 2003; • Children's Services Regulation 2004; • Food Safety Standards; and • Australian Standard 4674-2004 – Design, Construction and Fit-out of Food Premises. • Premises are required to register with: NSW Food Authority and The Hills Shire Council. 	Council's Environmental Health Officer (food premises) – comments remain outstanding.	Comment Outstanding

PART C SECTION 1 PARKING

CONTROL	PROPOSED	COMPLIANCE
2.1.1. General		
(a) Number of required parking spaces and associated conditions must be provided in accordance with Table 1. Any part spaces must be rounded up to the nearest whole number. Child Care Centres: 1 space per employee plus 1 space per 6 children enrolled for visitors and/or parent parking	A minimum 26 car parking spaces is required, however, only 19 carparking spaces are provided.	No
(b) All car parking spaces must be provided onsite.	All parking spaces would be provided on-site.	Yes
(e) Car parking for childcare centres must be situated in a convenient location, allowing for safe movement of children to and from the centre.	Car parking facilitates satisfactory on-site manoeuvring.	Yes
2.2 Parking for Disables Parsons and Parents with Prams		
(a) A proportion of the total parking spaces required shall be provided for disabled persons in accordance with Table 2. Retail/Commercial: 2% of total car parking	2% of 26 = 1 (rounded up to nearest whole number) 1 space provided within the basement.	Yes
(b) A continuous, accessible path of travel in accordance with AS 1428.1 shall be provided between each parking space and an accessible entrance to the building or to a wheelchair accessible lift.	Noted.	Noted
2.6. Set Down Areas		

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

(c) Driveways are to be screened by a minimum of two-metre-wide landscaping strip on either side.	The proposed driveways do not achieve a minimum of two-metre-wide landscaping strip on either side. The driveway will be adjacent to a pedestrian access gate.	No
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10. Development Contributions

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

11. Bonds

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

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.

13. The likely impacts of the development

The assessment demonstrates that the proposal will have a significant adverse impact upon the adjoining properties with applicable planning instruments and controls.

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as impacts on built environment impacts such as built form. The acoustic amenity of the area would be impacted by the proposal along with the visual amenity of the immediate neighbours due to insufficient information provided. In an attempt to resolve one issue, another is created. In the context of the site and the assessments provided by Council's experts, the development is not considered satisfactory in terms of environmental impacts.

14. Suitability of the Site

The subject site cannot accommodate the development of a 74 place childcare centre of this scale as the site requires services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties.

With the proposal of 74 children, the site is not able to provide the required area for unencumbered outdoor play area and the required number of carparking spaces.

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

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

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

15. Public Consultation

In accordance with the Parramatta Notification Plan, the Development Application was notified and advertised on one (1) occasion between 31 July 2023 to 21 August 2023. As a result of the notification period, thirty (30) unique submissions were received. Five (5) of the submissions received were in support of the proposal with one (1) petition consisting of twenty-seven (27) signatures was provided. The remaining submissions provided were in objection. The issues raised in these submissions and Councils response are provided below.

Key concerns raised in the submissions are addressed below.

Issue	Response
Traffic Concerns (12)	
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 Murray Farm Road and Tracey 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.
The development does not provide sufficient parking which will cause more demand for on-street parking.	The shortfall of parking has been raised as a reason for refusal.
Safety/Hazards for children and pedestrians (4)	
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 Murray Farm Road, and the surrounding road network.
Frequent 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 Murray Farm Road, and the surrounding road network.
Lack of Child Safety	A child safety report is not required as part of a 4.15 assessment under the Environmental Planning and assessment act.
Impact on biodiversity (3)	
Removal of mature trees due to space constraints	Council's Landscape Officers have reviewed the proposal and raised no objection to the removal of those trees as they are not native species.
Parking and Site Capacity (23)	
Inadequate parent parking spaces for 74 space childcare centre	The proposal does not provide the required number of carparking spaces with a shortfall of 7 spaces.
Parking provided is not in accordance with Australian standards	Car parking can be conditioned to achieve Australian standards.
Parking provided cannot facilitate dual parking once a car is parked in the tandem parking.	The car parking proposes tandem car spaces for staff which will facilitate adequate car parking as a result.
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 Murray Farm Road, and the surrounding road network.
Overshadowing Concerns (2)	
Objector concerns about the height of proposed eastern fence	Council has raised the height of the acoustic fence 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 orientation of the site allows most of the overshadowing of the proposal which makes up part of the refusal.
Privacy Concerns (3)	
Privacy issues relating to sightlines from the proposed development	The proposed development does not create opportunities for overlooking and privacy impacts. The proposal maintains a first floor play area forward of the building however it is positioned away from the western boundary and orientated to Murray Farm Road. The windows to the south maintain high sills reducing visual impacts. The child care will be screened by fencing and an acoustic wall to the western boundary providing additional privacy to both the subject site and neighbouring property.
Noise Disturbances (13)	
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.
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.
Saturation of Childcare Centres (7)	
Objector concerns about oversaturation of childcare centres in a 1km radius	The site is with a 1km radius of other childcare centre and primary schools. 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.
Built Form / Scale (6)	
The built form and child care facility consists of a large site coverage and building on site.	The development exceeds site coverage and building envelope requirements with insufficient setbacks provided on site and has been recommended for refusal given the scale.
Character	
The built form is not within the character of the streetscape and the greater locality.	The built form has been raised as a reason for refusal and it is considered to be out of character of the locality.
Materials	
The colour of proposed development and lighting are insufficient.	The building variation and materials (fencing) are inappropriate and form part of this refusal.
Excavation (2)	
The development requires a significant amount of excavation to facilitate the basement carparking. A structural report should be provided to ensure there are no impacts on neighbouring properties.	The excavation required for the development forms part of the reasons for refusal. A dilapidation report would have been sought if the proposal was to progress.
Notification / Community Engagement (2)	
Council is required to notify all neighbours.	Council has followed Council's Engagement Strategy, which includes the <i>Consolidated Development Application Notification Requirements</i> and has considered all submissions made.
Insufficient information	
The application proposes insufficient information relating to hours of operation and car parking.	Council has drawn issue with numerous insufficient information which form part of the reasons for refusal. The application has provided car parking numbers and hours of operation.
Waste Management	
The development provides insufficient waste.	The proposal provides sufficient waste manage to a collection point along Tracey Avenue.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

"If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices."

Conciliation Conference – Required and Not Held

The application received 30 unique submissions during the formal notification period and as a result, a Conciliation Conference was required to be held.

- In this instance, the applicant has lodged an appeal with the Land and Environment Court under section 8.7 of the Environmental Planning and Assessment Act 1979 and as a result, a Conciliation Conference was not held. [TRIM: F2023/02519]*

17. Public interest

The proposal is not in the public interest as the built form would have a detrimental impact on the local character and the substantial impacts on the Murray Farm Road and Tracey Avenue.

16. Conclusion

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

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

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/424/2023 for Demolition of existing structures, tree removal and construction of a 74 place two-storey childcare centre over basement parking at 1 Tracey Avenue, Carlingford for the following reasons:

- a. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the requirements to the following clauses of the *State Environmental Planning Policy (Resilience and Hazards) 2021- Chapter 4*.
- b. State Environmental Planning Policy (Transport and Infrastructure) 2021 Chapter 3 - Educational Establishments and Child Care Facilities:
 - 3.22 Concurrence of the Regulatory Authority
 - 3.23 Centre-based child care facility-matters for consideration by consent authorities
 - 3.26 Non – Discretionary Development Standards

The proposed development is inconsistent with the following under the Child Care Planning Guideline:

- Childcare Planning Guidelines Part 2 – Design Quality Principles
- Childcare Planning Guidelines Part 3.1 Site selection and location
- Childcare Planning Guidelines Part 3.2 Local character, streetscape and the public domain interface
- Childcare Planning Guidelines Part 3.3 Building orientation, envelope and design
- Childcare Planning Guidelines Part 3.4 Landscaping
- Childcare Planning Guidelines Part 3.5 – Visual & Acoustic Privacy
- Childcare Planning Guidelines Part 3.8 Traffic, Parking and Pedestrian Circulation
- Education and Care Services National Regulations Part 4.1 Indoor space requirements
- Education and Care Services National Part 4.7 Premises designed to facilitate supervision
- Education and Care Services National Regulations Part 4.9 Outdoor space requirements
- Education and Care Services National Regulations Part 4.10 Natural environment
- Education and Care Services National Regulations Part 4.11 Shade
- Education and Care Services National Regulations – 25 Education and Care Services National Regulations - Part 4.13 Soil Assessment

c. The Hills Development Control Plan 2012

The proposed development is inconsistent with the following provisions of the Hills Development Control Plan 2012:

- Part B, Section 2.4 Site analysis,
- Part B, Section 2.5 Streetscape & character,
- Part B, Section 2.12 Stormwater Management,
- Part B, Section 2.14.1 Rear Setback,
- Part B, Section 2.14.5 Landscaping,
- Part B, Section 2.14.14 Car Parking and Vehicular access,
- Part B, Section 2.15 Fencing
- Part B Section 2.34 Centre Based Child Care Facilities – Additional Controls
- Part C, Section 2.1.1 Parking,
- Part C, Section 2.7.3 Pedestrian Circulation and Safety,
- Part C, Section 2.8 Landscaping,
- Part C, Section 3.1 Landscaping

- d. In accordance with Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply the following parts of The Hills Development Control Plan 2012.
- e. In accordance with Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposal is not suitable for the site.
- f. In accordance with Section 4.15 (1)(d) of the Environmental Planning and Assessment Act 1979, the submissions relating to the proposal were taken into consideration.

- g. In accordance with Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not in the public interest.
- h. **That** Council advise those who made a submission of the determination.