



SECTION 4.15 ASSESSMENT REPORT
Environmental Planning & Assessment Act 1979

City of Parramatta	
File No:	DA/964/2022

DA No:	DA/964/2022
Subject Property:	Lot 35 DP 8884, 14 Windermere Avenue, NORTHMEAD NSW 2152
Proposal:	Demolition of existing structures, tree removal and construction of a part two and part three storey, 88 place Child Care Facility.
Date of receipt:	7 December 2022
Applicant:	Janssen Group Pty Ltd
Owner:	Mrs M T Barakat
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 Two (32)
Recommendation:	Refusal
Assessment Officer:	Matthieu Santoso

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 2012• The Hills Development Control Plan 2012 (PDCCP 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	Yes
Delegation	Parramatta Local Planning Panel (PLPP) due to the number of submissions received during Council's notification period exceeding ten (10).

1. Executive Summary

Section 4.15 Assessment Summary

2. Site Description and Conditions

The subject site is legally described as Lot 35 in DP 8884 otherwise known as 14 Windermere Avenue, Northmead. The site is a rectangular midblock located along Windermere Avenue, accessible via Windsor Road, William Street or Caprera Road.

The subject site is a large, regularly shaped corner allotment with a slope towards the South of 5.86m over a distance of 69.02m

The subject site has the following area and dimensions:



Figure 3: Multi-Dwelling Developments located opposite subject site on Windermere Avenue.



Figure 4: 16 Windermere Avenue, Northmead.



Figure 5: Heritage Item on the site of 18 Windermere Avenue, Northmead.



Figure 6: 12A Windermere Avenue, Northmead, Parramatta.



Figure 7: Heritage item on the site of 10 Windermere Avenue, Northmead.



Figure 8: Access onto 201 Windsor road from Windermere Avenue (Plus Fitness & Northmead Aquatic Centre).

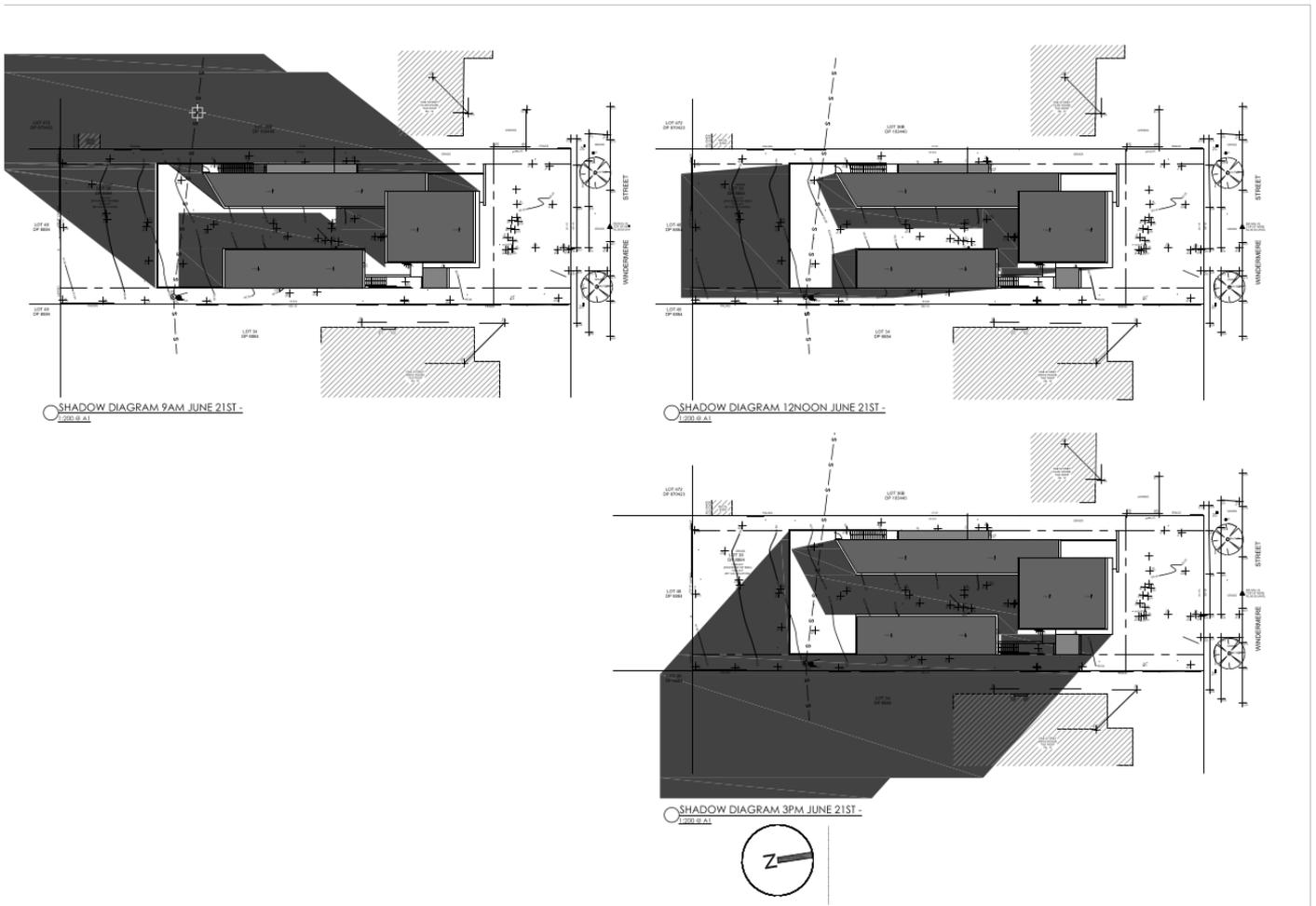


Figure 9: Submitted Shadow Diagrams.



Figure 4: Height of Building map per the Parramatta (former the Hills) Local Environmental Plan 2012.

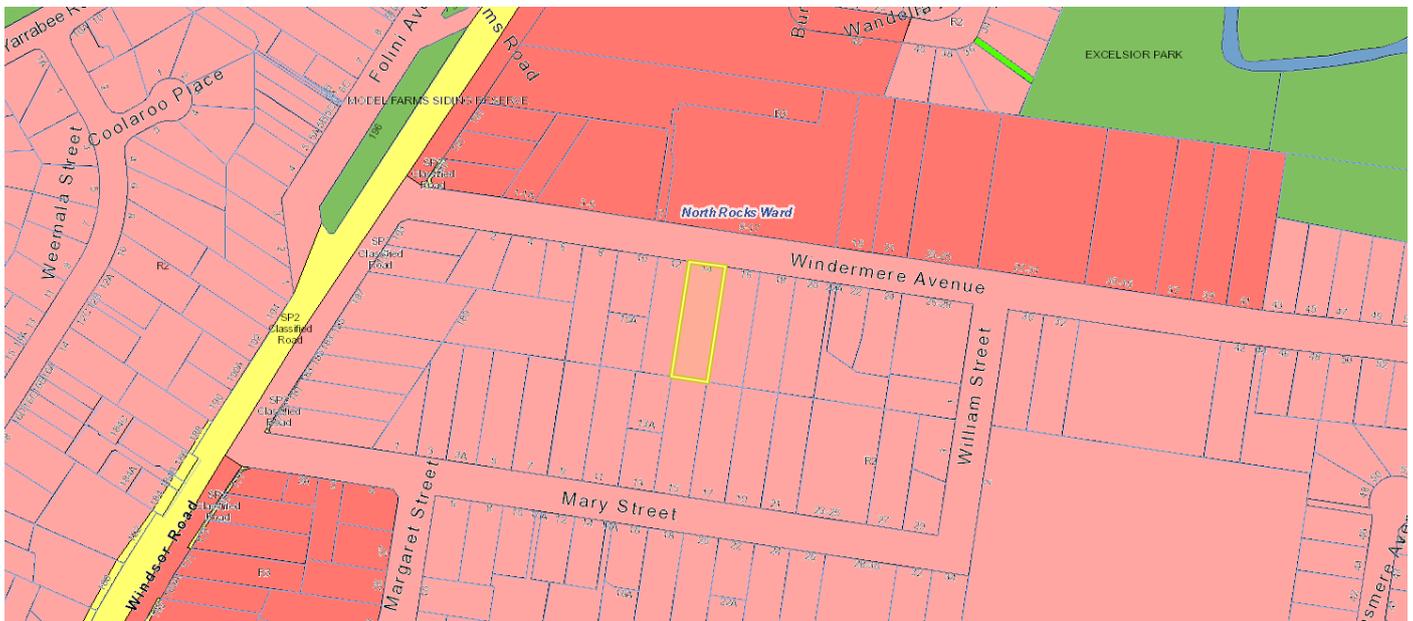


Figure 11: Zoning map per the Parramatta (former The Hills) Local Environmental Plan 2012.

3. Relevant Site History

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

Development Application	Description
TA/44/2021	Pruning of One (1) Tree Manolia Grandfolia (Bull Bay Magnolia)
DA/964/2022	Subject application.

4. The Proposal

Development Application DA/964/2022 was lodged on 07/12/2022 for the. Specifically, the application seeks approval for:

Works

- Demolition of the existing dwelling;
- Tree Removal;
- Construction of a part 2 and part 3 storey Centre-Based Childcare Centre as follows:
 - **Lower Ground Floor:**
 - Two indoor play areas for 0-2 & 2-3 Y/O
 - Cot room & Nappy change areas
 - Accessible bathroom
 - 353m² of outdoor play area
 - **Ground Floor:**
 - Administrative spaces and office
 - Kitchen, cool room & laundry
 - Staff room & Storeroom
 - 22 Car parking spaces (1 being accessible)
 - Bin storage room
 - **First Floor:**
 - Indoor play areas for 3-6 Y/O
 - Two children’s bathrooms & accessible bathroom
 - Plant room & storage room
 - 274m² of outdoor play area

Use

- Maximum capacity of 88 children with the following age breakdown:

- 0-2 years – 20 places (minimum 5 staff required)
- 2-3 years – 30 places (minimum 6 staff required)
- 3-5 years – 38 places (minimum 4 staff required)
- A total of 17 educators have been provided under this proposal.
- The proposed hours of operation are to be 7:00am to 6:00pm, Monday to Friday (excluding public holidays).

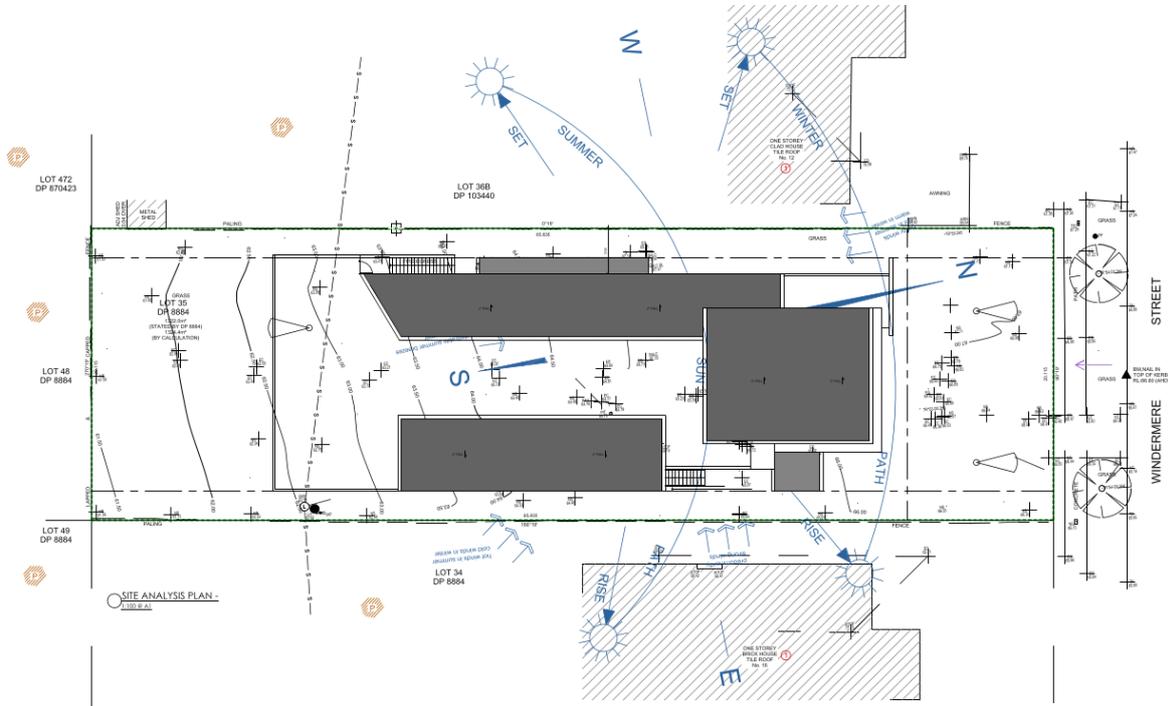


Figure 12: Site Plan. Source: Group Janssen Design.





Figure 13: Photomontage. Source: Janssen Designs.



Figure 14: Photomontage. Source: Janssen Designs.

5. Relevant Application History

Date	Comment
7/12/2022	Application lodged with Council.
23/02/2023	DEAP meeting held.
15/03/2023	DEAP comments issued to applicant with a request to withdraw the application due to the scope of modifications needed.
03/04/2023	Deemed refusal appeal was lodged.

6. Referrals

Design Excellence Advisory Panel

General Information

The City of Parramatta Design Excellence Advisory Panel (DEAP) provides independent expert advice on applications relating to a diverse range of developments within the City of Parramatta Local Government Area.

The DEAP comments are provided to assist both the applicant in improving the design quality of the proposal and the City of Parramatta in its consideration of the application.

Proposal

Demolition of existing structures, tree removal and construction of a three-storey, 88 place Child Care Facility.

Panel Comments

1. The application for a childcare centre on the south side of Windermere Avenue is on fairly steep site with falls towards the rear of the property.
2. The site is surrounded by single, and two storey detached dwelling houses with large private rear yards.
3. The proposal to accommodate as many as 88 childcare places on the site has resulted in non-compliances including building height and carparking. Council staff advise that this is a particularly high number of children for sites such as this within a R2 zone; given the many constraints on all sides, plus parking challenges, the Panel would concur.
4. The ground floor is dominated by carparking including the front setback area comprising open carparking with a relatively small amount of landscaping. The external car parking does not comply with the DCP's requirement that parking be setback 5m from the frontage.
5. The pedestrian entrance to the building is deep within the site and not visible from the street. It comprises a long and narrow pathway down the side of the building adjacent to the western boundary. Whilst there is space for landscaping adjacent to the boundary, the length and poor visibility of the entry is not ideal. The location of the entry also has the potential to impact on the privacy of the residential property to the west.
6. The proposal to split the building into two entities separated by the ground floor parking level is not supported by the Panel as it results in access and safety concerns.
7. The proposed ground floor, under croft parking, occupies prime space that would be better utilised as the main floor level of the childcare centre. The applicant is encouraged to provide an entrance that is visible from the street, one that is more accessible, readable, and secure. The entry sequence should provide adequate space for drop-off and pick-up and allow for casual interaction at the frontage and within a front garden.
8. The ground floor should comprise classrooms and ancillary spaces with indoor and outdoor areas directly connected to one another. The ground floor should have well-considered connection/s to a lower level at the rear with deep soil landscaping and trees. Additional staff/admin areas would be located on the first floor. First floor massing should be kept to the front of the building. This may allow for a single skillion roof following the slope with two storeys reading at the front and extra height provided to rear facing childcare spaces.
9. To accommodate the ground floor functions, the Panel is of the view that the carparking should be in a basement below the ground floor level with access via a ramp on the side of the property. The ramp should be setback to allow for side boundary screen planting. The removal of the proposed parking will allow for more landscaping at the front and for a more appropriate entrance and street presentation as discussed above.
10. There may be an opportunity to widen the building at the front in order to shorten the depth of the development and to increase the rear setback. This would reduce the impact of the development on the neighbours and allow for more deep soil planting and retention of existing trees at the rear.

11. The proposal to submerge the lower ground floor level is not supported as it results in classrooms with poor natural light and ventilation. The lower ground floor windows and doors are primarily south facing with deep setbacks from the floor level above.

12. The Panel raised concerns regarding the bulk and scale of the development, in particular at the rear where the building that extends deep into the site rises to 3 storeys in height. The incorporation of a narrow courtyard - itself a poorly proportioned open play space - exacerbates physical and visual bulk by creating long internal spaces, thereby pushing the built form further down the site. A better layout would face one childcare space to the front garden and have the other two spaces face rear facing balconies. South facing spaces could utilize skylights for solar access. As noted above, to reduce the bulk and scale at the rear, the Panel suggest stepping down the development with a roof form that follows the topography of the site.

13. The Panel also raised concerns regarding the size of the building footprint that results in a lack of deep soil and vegetation. As the survey plan, aerial and street views show, there is substantial vegetation and numerous trees on the property. The trees contribute significantly to the leafy character of the area. Whilst the proposal to remove the majority of the trees has been supported by the applicants Arborist, the report states that most of the trees are in good health and that the reason for the removal of the trees is only to accommodate the proposed development. The arborist anticipates the replacement of trees that are proposed to be removed. The Panel instead recommends designing the building to accommodate and retain as many trees as possible and to replace lost trees with suitable ones that will retain and enhance the leafy character of the neighbourhood.

14. The panel recommends using solar energy, rainwater tanks, ceiling fans and other environmentally sustainable appliances, systems, and strategies to minimise the environmental footprint of the development. All north, east and west facing windows need to be suitably shaded.

Panel Recommendation

The Panel does not support the proposal, significant re-design is recommended to respond to the issues noted above.

Referral Comments

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

Referral	Comment
Landscape	<p>Not Supported</p> <ol style="list-style-type: none"> 1. A revised Stormwater Drainage Plan to provide an alternative configuration of the OSD tank within the rear setback to utilise space under the proposed decking in order to achieve greater deep soil area within other areas of the rear setback. 2. The following information should be addressed in a revised Landscape Plan: <ul style="list-style-type: none"> • Show Tree No. 18 to be removed and replaced with the same species in a 100-litre container to be planted within deep soil zone with a minimum setback of 3 metres from the outside enclosing wall of the proposed building (including the upper-level overhang) and at least 2m from any proposed drainage line. • Additional canopy tree planting to the rear setback (if revised stormwater design provides additional deep soil). • Dense screen planting, utilising a native species, to the entire perimeter of the 'Outdoor' Play space is required in accordance with the requirements of Clause 5.2.3.2 of Council's DCP • Deletion of the species <i>Duranta</i> 'Sheena's Gold' due to its unsuitability for this type of development and replaced with a native species. • Clarification of 'native' species within the Planting Schedule is required. • All landscape plans are to be prepared by a professionally qualified landscape architect or landscape designer only and must be at 1:100 or 1:200 scale.

Traffic	<p>Not Supported</p> <ol style="list-style-type: none"> 1. <i>Provide minimum 32 off-street parking spaces in accordance with the requirements of the Hills DCP 2012. Alternatively, the number of children in attendance and the educators can be reduced such that the required parking provision be equal to the proposed 22 off-street parking spaces.</i> 2. <i>Provide a splay extending 2m from the driveway edge along the front boundary and 2.5m from the boundary along the driveway in accordance with Figure 3.3 of AS2890.1 to give clear sight lines of pedestrians from vehicles exiting the site. Details are to be illustrated on the amended plans and not be compromised by the landscaping, signage fences, walls or display materials.</i>
Engineering	<p>Not Supported</p> <ol style="list-style-type: none"> 1. <i>The proposed easement is to be amended to allow the site to drain from the South-West corner of the site being the lowest point and direct any emergency overflows in the same direction.</i> 2. <i>Written concurrence or evidence of advanced communications from all property owners affected by the proposed easement creation is to be provided to Council before any further assessment can proceed.</i> 3. <i>If it is proposed to connect into any existing easement stormwater drainage system, it must be demonstrated that there is sufficient capacity to cater for this development in addition to existing loads. Any upgrade works required shall be included in the plans.</i> 4. <i>The OSD tank is to be relocated outside of the child play area (or areas accessible to children) in accordance with Council's Stormwater Disposal Policy.</i> 5. <i>Provide WSUD measures in accordance with Section 2.21 of the Hills DCP Part B Section 6 and Appendix B – Water Sensitive Urban Design.</i> 6. <i>A swale shall be provided along the western side boundary to intercept surface flows from the local upstream catchment.</i>
Heritage	<p>Not Supported</p> <ol style="list-style-type: none"> 1. <i>A review for the retention of the existing dwelling should be undertaken to assess the heritage value of the house and its impacts on the consistency with other heritage items surrounding the site.</i> 2. <i>An improved natural landscape within the site and especially to the front street presentation which would sympathetically fit to the area character and adjoining sites</i> 3. <i>better internal layout to accommodate (especially for the below ground room also located under the carpark and with provision of minimal natural light and ventilation).</i>
Social Outcomes	<p>Not Supported</p> <ol style="list-style-type: none"> 1. <i>The delivery of a split-level childcare centre is not supported due to implications for safety and access to natural play elements. It is recommended that the ground floor where the entrance is located, be used for indoor and outdoor play spaces. The first floor is recommended to be used for administrative and storage purposes only.</i> 2. <i>With 88 childcare places being proposed, limited consideration has been given to the layout design and the sizes of indoor and outdoor play spaces.</i> 3. <i>Locating indoor and outdoor play spaces on lower ground and first levels increases safety risks in the case of an emergency evacuation and does not support effective supervision.</i> 4. <i>The development does not provide adequate shade in outdoor play space on the first level to give protection from ultraviolet radiation.</i> 5. <i>The development proposes the removal of a large number of trees on site. Council officers are concerned that the proposed development does not provide adequate</i>

	<i>natural elements and shade which contribute to positive developmental outcomes for children.</i>
Universal Access & Design	Recommendations provided.
Environmental Health	Supported subject to the imposition of conditions in the event approval was recommended.
Acoustic	Supported subject to the imposition of conditions in the event approval was recommended.
Food	Supported subject to the imposition of conditions in the event approval was recommended.
Waste Management	Supported subject to the imposition of conditions in the event approval was recommended.
External Referrals	
Sydney Water	Conditions/Recommendations provided.

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 (former The Hills) Local Environmental Plan 2011 (PLEP 2011)
- Parramatta Development Control Plan 2011 (PDCP 2011)
- Parramatta Local Environmental Plan 2023 (DLEP 2023).

Compliance with these instruments is addressed below.

7.2 SAVINGS PROVISIONS AGAINST PREVIOUS LOCAL ENVIRONMENTAL PLANS

Parramatta Local Environmental Plan 2023

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

- Parramatta (former The Hills) Local Environmental Plan 2012

Clause 1.8A Savings provision relating to development applications states:

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

The current DA was lodged on 07 December 2022 and therefore shall be assessed under Parramatta (former The Hills) Local Environmental Plan 2012.

Nonetheless, Council has reviewed the proposal against the Parramatta Local Environmental Plan 2023. Notably, the new PLEP 2023 introduces a floor space ratio development standard in line to ensure scale of developments within the local government area remain consistent with the zoning they are located in. In this regard, the Council has considered the following:

LEP	FSR
PLEP 2012	N/A
PLEP 2023	0.5:1
Proposed FSR: 704.57m² or 0.53:1	

The introduction of Floor Space Ratio is discussed per City of Parramatta’s Planning Proposal exhibition paper dated August 2020.

“It is proposed to adopt the optional Standard Instrument clause 4.4 to set maximum floor space ratios (FSR) for land in the City of Parramatta LGA. The intended objectives of the clause are to:

- *regulate density of development and generation of vehicular and pedestrian traffic.*
- *ensure development is compatible with the bulk, scale, and character of existing and desired future surrounding development.*
- *provide a transition in built form and land use intensity within the area covered by this Plan.*
- *require the bulk and scale of future buildings to have regard to heritage sites and their settings.*
- *reinforce and respect the existing character and scale of low-density residential areas.”*

It is noted that whilst the Parramatta (former The Hills) LEP 2012 does not have a prescriptive floor space ratio applicable to the site, bulk and scale is instead regulated through a combination of height restrictions under clause 4.3 of the LEP as well as site coverage & dwelling footprint controls under the Hills Development Control Plan 2012. The proposed developments fails to demonstrate a compliant site coverage/dwelling footprint whilst exceeding the

prescribed 9m height limit. In this regard, Council cannot consider the proposed development to be suitable for the current nor envisaged character of the area.

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

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

Council's Consultant Landscape Architect/Arborist raised no objections to the removal of 25 trees subject to appropriate conditions of consent in the event that approval is granted.

Council's Landscape officers have considered that the removal of 25 (5 of which are exempt) trees on site will not have an adverse impact of the ecological, heritage, aesthetic, and cultural significance of the area. The submitted landscape plan however required amendments inclusive of species changes, removal of tree no.18, screen planting and OSD relocation. These items were raised during the DEAP panel held on the 23rd of February 2023 and subsequently in the DEAP report issued on the 15th of March 2023.

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

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

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

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

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

The site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have an obvious history of a previous non-residential land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated.

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

Standard and special conditions relating asbestos and contamination would have been recommended should the application have been recommended for approval.

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

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

Development standard	Compliance
<p>Clause 22 – Centre based Childcare Facility – Concurrence</p> <p>Does the floor area of the building or place comply with Regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations?</p> <p>Required – $88 \times 3.25\text{m}^2 = 286\text{m}^2$</p> <p>Does the outdoor space requirements for the building or place comply with Regulation 108 of the Education and Care Services National Regulations?</p> <p>Required – $88 \times 7\text{m}^2 = 616\text{m}^2$</p>	<p>Indoor Play area: Yes The proposal will provide 310.3m^2 of indoor play space.</p> <p>Outdoor Play area: No The proposal will provide 509m^2 of outdoor play space.</p> <p>The outdoor play area however is inhibited by the location of OSD grates located towards the lower ground floor play area. These spaces are taken to be excluded from calculations under section 4.9 of the Childcare Planning Guideline as these spaces cannot be considered as “suitable for children” and therefore not taken to form unencumbered space.</p>
<p>Clause 23 – Matters for Consideration.</p> <p>Before determining a development application for development for the purpose of a centre-based childcare facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i>, in relation to the proposed development.</p>	<p>Yes – The applicable provisions of the Child Care Planning Guideline have been considered and an assessment against the matters for consideration are provided in the table below.</p>
<p>Clause 26 – Non- Discretionary Development Standards</p> <p>a) Location b) Indoor or Outdoor space c) Site Area & Site Dimensions d) Colour of building materials or shade structures</p>	<p>Yes – The non-discretionary development standards subject of this clause including location, indoor and outdoor space in excess of the regulations, site area and dimensions, and building materials and finishes have been considered satisfactory during the assessment of the application.</p>
<p>Clause 27 – Centre-based childcare facility —development control plans</p> <p>(a) operational or management plans or arrangements (including hours of operation), (b) demonstrated need or demand for childcare services, (c) proximity of facility to other early education and care facilities, (d) any matter relating to development for the purpose of a centre-based childcare facility contained in: i) the design principles set out in Part 2 of the Child Care Planning Guideline, or ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p>	<p>Yes - The provisions contained in The Hills Development Control Plan 2012 pertaining to this clause have not been applied when assessing the proposed development.</p>

7.7 CHILDCARE PLANNING GUIDELINE 2017

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	Complies
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 Windermere Avenue. 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 and business nodes. The is located within 190 m distance to multiple bus stops services by bus routes 600, 601, 603 and 614, which connects the site with Parramatta CBD. • 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. 	Yes
Principle 2 – Built Form	<p>The proposed childcare centre seeks a carpark forward of the building which is considered to be incompatible with the predominant building typology within the locality, which is residential dwellings, and two-storey multi dwelling developments. Further, narrow play areas to the first floor serve to elongate corridor and service rooms further down the site.</p>	No
Principle 3 – Adaptive Learning Spaces	<p>The proposed indoor and outdoor play areas are considered not to be suitable with the “underground” 0-2 years indoor playroom which will be considered to have no access to sunlight.</p>	No
Principles 4 –	As a result of the lower ground floor	No

Sustainability	being predominantly enclosed and underground, the indoor play spaces on that level will not receive any natural light or cross ventilation.	
Principle 5 – Landscape	The play areas have suitable landscaping on the ground floor. However, the proposal screen planting to the perimeter of play areas. Further, the submitted planting schedule fails to denote planting species described as “native”.	No
Principle 6 – Amenity	The proposal fails to demonstrate suitable amenity towards children residing within the lower ground 0-2 & 2-3 year old rooms. As these spaces are submerged below the natural/finished ground level, it is not considered that these space will achieve sufficient solar access & ventilation noting that outdoor accessways front the South.	No
Principle 7 – Safety	The placement of parking forward of the building and side entry creates poor building entryway readability.	No
Part 3 – Matters for Consideration		
3.1 Site selection and location	Yes Note: the subject site is located in an area that would be able to sustain a new Child Care Centre.	
3.2 Local character, streetscape and the public domain interface	No Note: the proposed childcare centre fails to demonstrate a built form that is compatible with the predominant building typology within the locality, comprising residential dwellings and older style walk-up medium density housing. The proposed development utilises parking forward of the building inhibiting landscaping and entryway identification opportunities. Which is inconsistent with the current streetscape.	
3.3 Building orientation, envelope and design	No Note: the subject site is located within the R2 Low Density Residential zone, so the development has been assessed against the single dwelling building envelope controls found within Part B Section 2 of the Hills Development Control Plan 2012. Per clause 11, the proposed development in its current form is situated to inhibit solar access to lower ground internal play areas. Further, the proposed development fails to demonstrate compliance with the 9m height limit per clause 4.3 of the Parramatta (former The Hills) LEP 2012.	
3.4 Landscaping	No Note: the provided landscape elements to the outdoor play areas have been requested to be amended to include screen planting. No such changes were received.	
3.5 Visual and Acoustic Privacy	No Note: Council’s Landscape Officer has requested the addition of a landscape buffer towards the rear property boundary in order to protect the amenity of adjoining residents.	

3.6 Noise and air pollution	<p>Yes</p> <p>Note: the subject site is not located within proximity to any uses that could potentially cause air quality impacts to the centre. Council raises no concerns with the submitted acoustic report.</p>	
3.7 Hours of Operation	<p>Yes</p> <p>Note: the proposed operational hours of 7am to 6pm are considered to be suitable for the residential setting of the development.</p>	
3.8 Traffic, Parking and Pedestrian Circulation	<p>No</p> <p>Note: per the Hills Development Control Plan 2012, 17 staff spaces & 15 visitor spaces are required.</p> <p>11 staff spaces have been provided with 11 (inclusive of one accessible) visitor parking spaces have been provided.</p> <p>Further, the proposed side entryway onto the site, fails to demonstrate a suitable width for two prams in accordance with clause 36.</p>	
Part 4 – Applying the National Regulations to Development Proposals		
Controls	Proposed	Compliance
4.1 Indoor space requirements		
<p>Regulation 107 Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p>	<p>Required – 286m² Provided – 310.3m²</p>	<p>Yes</p>
<p>Verandas' as indoor space For a veranda to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather.</p>	<p>The application does not rely on verandas as indoor space.</p>	<p>N/A</p>
<p>Storage • a minimum of 0.3m³ per child of external storage space • a minimum of 0.2m³ per child of internal storage space.</p>	<p>17.6m² of indoor storage is required with 34.56m² being provided.</p> <p>26.4m² of outdoor storage is required with 35.69m² being provided.</p>	<p>Yes</p>
4.2 Laundry and hygiene facilities		
<p>Regulation 106 There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen</p>	<p>A laundry room is provided. This room is contained so as not to pose a risk to children.</p>	<p>Yes</p>

4.3 Toilet and hygiene facilities		
<p>Regulation 109 A service must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.</p>	Satisfactory toilet and hygiene facilities have been provided for use by children attending the CCC.	Yes
4.4 Ventilation and natural light		
<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.</p>	As a result of the lower ground floor being predominantly enclosed, the indoor play spaces on that level will not receive any natural light or cross ventilation.	No
4.5 Administrative space		
<p>Regulation 111 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>	Suitable amenity has been provided.	Yes
4.6 Nappy change facilities		
<p>Regulation 112 Childcare facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.</p>	As the CCC will accommodate children that wear nappies, nappy change facilities are provided in all children's bathrooms.	Yes
4.7 Premises designed to facilitate supervision		
<p>Regulation 115 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</p>	Supervision to children occupied areas is considered to be suitable.	Yes

their rights and dignity.		
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4.8 Emergency and evacuation procedures		
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<p>Regulations 97 and 168 Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation.</p> <p>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 • a risk assessment to identify potential emergencies that are relevant to the service. 	No emergency evacuation plan provided.	No
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4.9 Outdoor space requirements		
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<p>Regulation 108 An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7m² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.</p>	Required – 616m ² Provided – 627m ²	Yes
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4.10 Natural environment		
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<p>Regulation 113 The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.</p>	The play areas have suitable landscaping elements.	Yes
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4.11 Shade		
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<p>Regulation 114 The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded</p>	The proposal provides for satisfactory shaded areas around the perimeter of the CCC. The shade structure allows for monitoring of the children from within the CCC.	Yes
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<p>areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>The shaded areas are evenly distributed throughout the CCC.</p>	
<p>4.12 Fencing</p>		
<p>Regulation 104 Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p>	<p>The outdoor play area is enclosed by a minimum of 1.8m boundary fencing. Council’s landscape officers have also requested the addition of vegetative landscape screening towards the rear property boundary.</p>	<p>Yes</p>
<p>4.13 Soil Assessment</p>		
<p>Regulation 25 Education and Care Services National Regulations Subclause (d) of regulation 2 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p> <ul style="list-style-type: none"> • A soil assessment for the site of the proposed education and care services 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>A review of Council’s records indicates that the site does not contain potential for contamination and was deemed to be satisfactory.</p>	<p>Yes</p>

8. Parramatta (former The Hills) Local Environmental Plan 2012

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

Clause 1.2 Aims of Plan

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to guide the orderly and sustainable development of the City of Parramatta local government area, balancing its economic, environmental and social needs,*
- (b) to provide strategic direction and urban and rural land use management for the benefit of the community,*
- (c) to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,*
- (d) to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of the City of Parramatta local government area,*
- (e) to preserve and protect the natural environment of the City of Parramatta local government area and to identify environmentally significant land for the benefit of future generations,*
- (f) to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.*

It is considered that the development satisfactorily meets the aims of the plan.

Clause 2.3 Zone objectives and Land Use Table

The site is zoned R2 – Low Density Residential under the Parramatta (former The Hills) Local Environmental Plan 2012. The aims and objectives for the R2 zone in Clause 2.3 – Zone Objectives are as follows:

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

The proposal is considered to have failed to meet the final objective noting that the proposed development carries significant bulk and scale attributed to its building design and parking location.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings Allowable: 9m Proposed: 9.67m	No Note: a ridgeline of 72.8 AHD was compared against the NGL below at 63.13 AHD.
Cl. 4.6 Exceptions to Development Standards	Variation to Clause 4.3 'Height of Buildings' standard. See Below.
Part 5 Miscellaneous provisions	
Cl. 5.10 Heritage conservation	The site is not considered to be a heritage item nor is it located within a heritage conservation area. Notwithstanding, the subject site is located within the vicinity of two heritage items located on 10 & 18 Windermere Avenue. As such, Council's Heritage Advisor cannot support the application as the developments fails to demonstrate a visually subservient streetscape design.
Cl. 5.21 Flood Planning	The subject site is not considered to be flood prone.

Clause 4.6 Exceptions to Development Standards Building Height

The proposal does not comply with the maximum 9m building height development standard detailed in Clause 4.3 of the PLEP. The proposed building height is **9.67m**.

The development proposal exceeds the maximum permissible building height by 0.67m which is a **7.4% variation** to the development standard.

Clause 4.6 of Parramatta (former the Hills) LEP 2011 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – Objectives of Clause 4.6

The objectives of clause 4.6 of the Parramatta (former the Hills) LEP 2011 are considered as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (a) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

Clause 4.6(2) – Operation of Clause 4.6

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of this LEP, or otherwise by any other instrument.

Clause 4.6(3) – The Applicant’s written request 4.6

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,*
- and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has not submitted a written request justifying the variation to the height of building development standard.

It is noted that a request for a written Clause 4.6 was not made considering the extent of changes required to ensure compliance with other matters as required. The applicant was however notified of this requirement as part of the DEAP report provided on the 15th of March 2023. Council to date has not received a written request nor amended plans to date and as such, cannot provide development consent pursuant to clause 4.6 (3).

Notwithstanding, an assessment has been undertaken to determine whether compliance with the standard is ‘unreasonable and unnecessary’ and there are ‘sufficient planning ground’ as follows:

An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken below. These cases establish tests that determine whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council [2007] NSWLEC 827* the presiding Chief Judge outlined the following five (5) circumstances:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

Height of Buildings Objectives

- (a) To ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*

Comment:

The proposed layout of play areas to the first floor exaggerates the building form along the site. As a result, a portion of the building form proceeds beyond the 9m height limit set out under Clause 4.3 of the PLEP 2012. Developments within the immediate locality are characterised as single or two storey dwelling houses with both legacy and new multi dwelling developments located to the North, East and South. Whilst the development appears as a two-storey dwelling from the public domain, the provision of an at-grade carpark has resulted in a three-storey development noting the site slopes towards the rear.

Within the immediate locality, car parking has been integrated into building design with multi-dwelling developments both within the R2 and within the adjoining R3 zone. Where parking cannot be accommodated into the building they have been located towards the rear (as shown in developments on the site of 23-35 Windermere Avenue). Parking forward of the building disrupts the open landscape areas found across the entirety of Windermere Avenue and instead exacerbates a sense of commercialization into the area. Further, as a result of the proposed internal layouts of the ground and first floors, long corridors have been provided towards the first floor creating unnecessary bulk and blank walls when viewed from the side.

Council’s Heritage Officer has raised concern with the massing of the development noting that a reduction in places would reduce the area of play spaces required. Dwelling Houses located on the site of 10 & 18 Windermere Avenue are considered to be heritage items under the Parramatta Local Environmental Plan 2023. The proposed parking forward of the building attribute to the removal of landscape and open space towards the front of dwellings which is a characteristic found within the locality.

(b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open spaces areas.

Comment: As shown in **Figure 15**, the elements of the proposed building which exceed the control are largely toward the Rear of the proposed First floor.

The encroachment of the first-floor element towards the rear results in poor amenity towards the lower ground floor internal play areas. Most notably the 0–2-year-old indoor playroom will be located under an undercroft resulting in poor solar amenity and ventilation.

Further, the height of the development leads to the shadowing of the rear lower ground outdoor play area as shown in **Figure 9**.

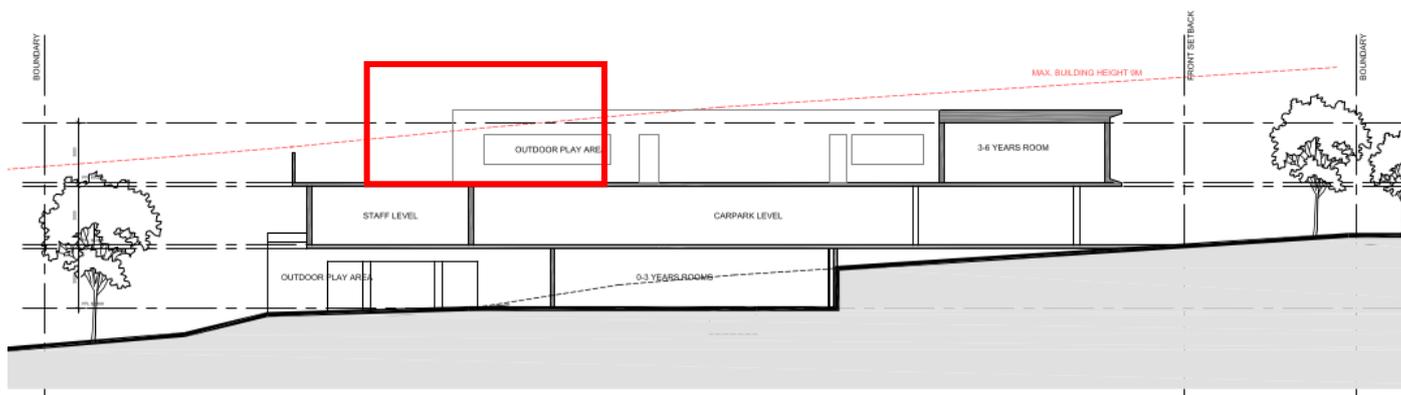


Figure 15: Proposed Height breach outlined in red. Source: Janssen Designs.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

Comment: The proposed development seeks the construction of an 88-place childcare within an R2 low density residential zone. In this regard, the clause serves to set a standard height plane across all developments within the zone. Per **Figure 11**, the standard height limit adopted within the R2 zone and also within the R3 zone located towards the North is 9m. Council has not abandoned the control and it can be seen that a departure to this control would threaten the continuity of developments within the locality.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

Comment: There is no justification provided as to how a reduction in development height would thwart the objectives of the clause.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

Comment: There is no evidence of Council having abandoned the clause noting development approvals within the vicinity have complied with the development standard.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

Comment: The surrounding sites towards the East, South and West are all zoned R2 – Low Density Residential with R3 – Medium Density residential located to the North under the Parramatta (former the Hills) LEP 2012 and continue to be zoned as such within the Parramatta LEP 2023. Under these two plans there has been no changes to the height development standard being 9m. In this regard, Council does not consider the zoning of the site to inhibit the objectives of the development standard.

Is the exception well founded?

It is considered that the application fails to address key issues related to height and parking management. Therefore, it should be noted a reduction in places would alleviate key issues with the development which would culminate in a reduction in building height.

Furthermore, the additional increase to density and scale brought by the non-compliant building height would serve to only weaken the low density setting of the development.

With regard to the above, it is therefore recommended the Clause 4.6 variation to building height is not supported despite the applicant not submitting a formal submission against Clause 4.6.

9. The Hills Development Control Plan 2012

A consideration of the relevant sections of The Hills DCP 2012 (THDCP 2012) which includes the controls for Business Development, Parking and General Residential development sections are provided below.

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	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 should the application have been recommended for approval.	Noted
(e) Setbacks for childcare centre car parking areas: Residential zones Minimum 5 metre setback from the front property boundary.	Parking is located 2.84m from the front boundary.	No
(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.	Planting has been provided between the front boundary and parking spaces to a distance of 2.84m & 3.45m.	Yes
(g) Side boundary setbacks to car parking areas are to be in accordance with Part C Section 1- Parking and the relevant Sections	Suitable	Yes

of the Development Control Plan as outlined in (a) above.		
(h) The location of external child play areas in the front setback area is not permitted.	No external play areas are located forward of the building.	Yes
(j) Landscaping along the primary and secondary frontages is to include a combination of ground covers, large trees, shrubs, and grass planting and is to provide high-quality landscaping for the development. Landscaping shall be established prior to the occupation of the building.	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(k) Trees and shrubs shall be provided alongside and rear boundaries to screen outdoor play areas	The proposal does not adequately address all landscaping requirements. See landscape comments.	No
(l) Food preparation areas in a child care centre must comply with: <ul style="list-style-type: none"> • 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 has no objection to the proposal subject to conditions in the event the application were approved.	Yes
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	THDCP 2012 requires 1 space per 6 children and 1 space per staff member. Maximum 17 staff members proposed, Minimum 17 spaces required for staff. Minimum 15 spaces required for parents/visitors. A total of 22 car parking spaces is proposed.	No, a shortfall of 10 car parking space
(b) All car parking spaces must be provided onsite.	All parking spaces would be provided onsite.	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.	It is noted that the car parking for the childcare centre is situated in a convenient location.	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 32 = 4 (rounded up to nearest whole number) 1 space provided.	No
(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. 	The proposal does not incorporate any set down areas into the parking layout.	No

<ul style="list-style-type: none"> • Shopping centres. • Community centres. • Libraries. • Entertainment facilities. • Child Care Centres. • Recreational facilities. • Transport terminals and interchanges. 		
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.	Splay corner have been withheld from the development attributing to decreased sightlines during egress and ingress.	No
(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
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.	Yes
(d) All parking spaces shall be designed to ensure they can be accessed by a maximum 3-point combined manoeuvre, i.e. 1 movement to enter the space and 2 movements to leave, or 2 movements to enter and 1 to leave.	Council's Traffic Engineers have raised no objections regarding on-site manoeuvrability.	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	Council's Traffic Engineers have raised no objections regarding on-site manoeuvrability.	Yes
(g) Spaces adjacent to obstructions must be 300mm wider on the side of the obstruction.	Spaces adjacent to obstructions would be 300mm wider on the side of the obstruction.	Yes
(i) Basement parking areas should be setback the same distance as the building above.	A basement is not proposed.	N/A
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. 	Landscaping has been provided towards the side and front boundaries in lieu of between parking spaces.	No

<ul style="list-style-type: none"> Between spaces at a rate of one in every ten car parking spaces. 		
(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.	0.7m of landscaping has been provided to the Western side boundary with 1.52m being provided to the Eastern side boundary.	No
(c) Driveways are to be screened by a minimum of two-metre-wide landscaping strip on either side.	Landscape strips of 6.8m & 5.1m have been provided adjoining the driveway.	No
PART B SECTION 2 RESIDENTIAL		
STANDARD	PROPOSED	COMPLIANCE
<p>2.3 Restricted Development Areas RDA's must be accurately plotted on the Site Plan and any development proposed within the RDA must be clearly identified.</p> <p>Development is to be limited at specified environmentally sensitive locations as identified on the locality maps for this Section of the DCP (Part B Section 2).</p> <p>Additional site-specific controls apply to land adjoining Heritage Park (See Appendix C). Check Map Sheets for detail.</p>	No RDAs are located on site.	N/A
<p>2.4 Site Analysis Development should be designed to respect the streetscape and site constraints such as topography, drainage, soil, landscapes, flora, fauna, drainage and bushfire hazard.</p> <p>Development on land adjoining bushland reserves should prevent any impact on the reserves.</p>	The proposed development would be inconsistent with the prevailing low-density character when viewed from the street. The exceedance in height to the rear portion of the site attributes to excessive bulk and scale that cannot be supported.	No
<p>2.5 Streetscape & Character The proposed development must:</p> <p>Contribute to an attractive residential environment with clear character and identity.</p> <p>Address the street and boundaries to the site.</p> <p>Retain, complement and sensitively harmonise with any heritage item or conservation area in the vicinity that are identified in Council's Local Environmental Plan; and</p> <p>Provide building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing.</p>	<p>The objectives of the clause are as follows:</p> <ul style="list-style-type: none"> (i) To ensure that the appearance of new development is of a high visual quality, enhances the streetscape and complements surrounding development. (ii) To ensure that new development is sensitive to the landscape setting and environmental conditions of the locality. (iii) To ensure that the appearance of housing is of a high visual quality, enhances the streetscape and complements good quality surrounding development. (iv) To encourage streetscape variation whilst maintaining a high level of amenity of the development. 	Yes

<p>Additional site-specific controls apply to Hunterford Estate, Oatlands and Gilroy College (see Appendix C).</p>	<p>(v) To ensure new development respects and enhances the green and garden character of The Hills Shire.</p> <p>(vi) To achieve development that respects and makes a positive contribution to the character and sense of place of Castle Hill.</p> <p>(vii) To enhance the visual attractiveness, safety and security and personal comfort of streets and public and semi public spaces.</p> <p>The proposed at grade parking sought forward of the building line remains inconsistent with the established character of the area. The placement of parking prevents the front setback from achieving its landscape requirements which is considered to contradict the objectives of the clause.</p>	
<p>2.9 Erosion and Sediment Control An Erosion and Sediment Control Plan (ESCP) is required to be submitted in accordance with “Managing Urban Stormwater – Soils and Construction”, produced by the NSW Department of Housing.</p>	<p>An ESCP was prepared and submitted for assessment. Council does not raise any objections to the submitted plans.</p>	<p>Yes</p>
<p>2.10 Heritage Views to and from significant items of natural or cultural heritage should not be impeded by development.</p> <p>If the development is within the Rouse Hill Development Area, SREP No. 19 will also apply.</p> <p>All developments must address and comply with the provisions of Part C Section 4 – Heritage where:</p> <p>The development site is listed in of LEP 2012 Part 1 of Schedule 5 or is within a Heritage Conservation Area under LEP 2012 Part 2 of Schedule 5; or</p> <p>The development site adjoins a site listed in Schedule 5 of LEP 2012 or adjoins a conservation area under LEP 2012; or</p> <p>The development site is, or adjoins a site, listed in any Draft LEP or Heritage Study that identifies potential heritage items or sites.</p>	<p>The subject site is not a heritage item or located within an HCA. Notwithstanding, the subject site is located within the vicinity of two heritage items located on 10 & 18 Windermere Avenue. As such, Council’s Heritage Advisor does not support the application as the developments fails to demonstrate a visually subservient streetscape design.</p>	<p>N/A</p>

<p>2.12 Stormwater Management Concentrated stormwater flow must be connected to Council's drainage system.</p> <p>Check 88B Instrument whether OSD is required, and whether the subject lot has legal rights to connect to drainage easements.</p> <p>On Rural land, discharge points from tank overflows etc should not cause erosion or impact on adjoining properties.</p>	<p>Council's Development Engineers do not support the application. Refer to engineering comments.</p>	<p>No</p>									
<p>2.14.1 Dwellings – Building Setbacks Site specific controls apply to land adjoining Heritage Park facing Old Castle Hill Road. Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C – Precinct Plan Maps and Site-Specific Controls). Classified Road: 10m Other Road: 10m or as depicted on DCP Maps 1-4 Where the predominant setback pattern of the street exceeds the above requirements, the setbacks of three (3) adjoining dwellings either side of the proposed dwelling will apply.</p>	<p>Control = 10m Proposed = 10m</p> <p>It is noted that the Childcare Centre Guidelines seek to ensure that the proposed childcare centre has a front setback equivalent to the average of the two nearest adjacent buildings.</p> <p>To this degree, the proposed front setback is considered acceptable.</p> <p>It is noted that whilst the building is located at an appropriate setback from the front boundary, the car parking required for the development is not.</p>	<p>Yes</p>									
<p>Corner Setbacks Minimum 6 metres for the primary frontage and 4 metres to a secondary road frontage.</p>	<p>The subject site is not a corner allotment.</p>	<p>N/A</p>									
<p>Side Setback</p> <table border="1" data-bbox="121 1240 557 1527"> <thead> <tr> <th>Height of building</th> <th>Distance of wall to boundary line</th> <th>Distance to eave to boundary line</th> </tr> </thead> <tbody> <tr> <td>1 or 2 storeys</td> <td>900mm</td> <td>675mm</td> </tr> <tr> <td>3 storeys</td> <td>1500mm</td> <td>1175mm</td> </tr> </tbody> </table>	Height of building	Distance of wall to boundary line	Distance to eave to boundary line	1 or 2 storeys	900mm	675mm	3 storeys	1500mm	1175mm	<p>Side setbacks = 1 & 2 Storey elements: 2m / 1.52m 3 Storey elements: 3.15m / 2m</p>	<p>Yes</p>
Height of building	Distance of wall to boundary line	Distance to eave to boundary line									
1 or 2 storeys	900mm	675mm									
3 storeys	1500mm	1175mm									
<p>Rear Setback</p> <table border="1" data-bbox="121 1617 552 1816"> <thead> <tr> <th>Height of building</th> <th>Setback</th> </tr> </thead> <tbody> <tr> <td>1 storey element of dwelling</td> <td>4m</td> </tr> <tr> <td>2-3 storey elements of dwelling</td> <td>6m</td> </tr> </tbody> </table>	Height of building	Setback	1 storey element of dwelling	4m	2-3 storey elements of dwelling	6m	<p>Rear setback = Lower Ground Floor: 8.7m Ground Floor: 13.1m First Floor: 12.4m</p>	<p>Yes</p>			
Height of building	Setback										
1 storey element of dwelling	4m										
2-3 storey elements of dwelling	6m										
<p>2.14.2 Site Coverage The maximum site coverage permitted is 60% (793.2m²) with the exception of land zoned E4 and land identified in the Map Sheets by pink shading, where the maximum site coverage is 30%.</p>	<p>Site coverage = 925.46m² Dwelling footprint = 646.36m²</p> <p>Note: the proposed development seeks a variance of 132.26m² or 16% to site coverage & 51.46m² or 8.6% to dwelling footprint. These variances are generally attributed to</p>	<p>No</p>									

<p>Dwelling building footprint is to be no more than 45% (594.9m²) of the site coverage, with the exception of land shaded pink on Map Sheets 1-42.</p>	<p>the at grade parking proposed. The additional bulk created forward of the building as a result disrupts the large green front setbacks associated within the immediate locality.</p>	
<p>2.14.3 Building Height LEP 2012 4.3 Height of buildings (1) The objectives of this clause are as follows: (a) to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape. (b) to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas. (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>9.67m.</p> <p>Note: a ridgeline of 72.8 AHD was compared against the NGL below at 63.13 AHD. Refer to clause 4.6 discussion.</p>	<p>No</p>
<p>2.14.5 Landscaping Site specific controls apply to Hunterford Estate in Oatlands, Gilroy College and residential development at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C – Precinct Plan Maps and Site Specific Controls).</p> <p>All setback and car parking areas are to be landscaped and maintained in accordance with the provisions of Part C Section 3 – Landscaping.</p> <p>A Minimum 40% (528.8m²) landscaped area is required with the exception of land zoned E4, where the minimum is 70%.</p> <p>Note: Landscaped area does not include any paved or built upon area such as driveways, tennis courts, patios/decks, outbuildings or pools.</p>	<p>Landscaping = 351.65m²</p> <p>Note: the proposed development seeks a variance of 177.15m² or 33.5%. The significant variation is in part due to the provision of at-grade parking in lieu of a basement. This design has led to the minimal provision of landscaped areas forward of the site. A basement configuration would allow for the provision of additional parking spaces whilst allowing for the provision of landscaping forward of the building.</p>	<p>No</p>
<p>2.14.7 Cut and Fill Maximum 600mm of filling without a concealed dropped edge beam.</p> <p>Maximum of 1.5 metres with a concealed dropped edge beam.</p> <p>Excavation in excess of 1 metre may be permitted, subject to there being no adverse effect on the adjoining owners and the submission of structural engineer’s details of retaining walls with the Development Application, or alternatively, a separate Development Application is to be submitted.</p>	<p>Council’s Development Engineers have not raised concern regarding the proposed cut and fill involved with the project.</p>	<p>Yes</p>

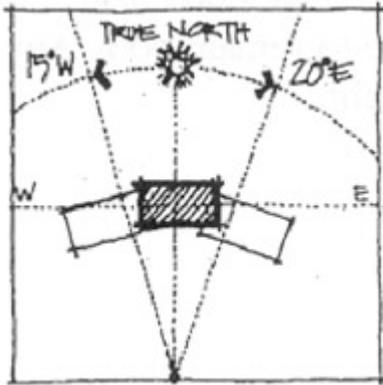
<p>2.14.8 Building Materials Materials to be compatible with surrounding developments. A schedule of external materials and colours is required.</p>	<p>The proposed colours sought for the materials are considered compatible with the surrounding developments.</p>	<p>Yes</p>
<p>2.14.9 Visual and Acoustic Privacy Site specific controls apply to Hunterford Estate in Oatlands and Gilroy College Target Site (Refer to Appendix C – Precinct Plan Maps and Site-Specific Controls).</p> <p>Buildings are to be designed to ensure maximum protection of privacy. Where appropriate consideration should be given to:</p> <p>using windows that are narrow, translucent or obscured or, in the case of bathrooms, have windowsills a minimum of 1.5 metres above the upper storey floor level; and</p> <p>ensuring that windows that face directly to the windows, balconies or yards of adjoining dwellings are appropriately screened.</p> <p>First floor balconies will not be permitted where they overlook living areas of adjacent dwellings.</p> <p>Windows should be placed to minimise direct viewing between dwellings.</p> <p>Dwellings are to be designed to limit the potential for noise transmission to the living and sleeping areas of adjacent existing and future developments.</p> <p>Careful consideration should be given to the location of air-conditioning systems, swimming pools and the like to minimise the impact on the amenity of adjoining properties.</p> <p>Private open space areas and driveways are to be designed to minimise noise impacts.</p> <p>Dwellings that adjoin classified roads are to be designed to ensure acceptable internal noise levels, based on Environmental Protection Authority – Environmental Criteria for Road Traffic Noise and Australian Standard 3671 – Road Traffic Noise Intrusion – Building Siting and Construction.</p>	<p>The proposed development has been designed to ensure protection of privacy to and from the internal play area. Given that adequate setbacks have been provided, it is unlikely that the proposal would result in overlooking impacts to and from neighbouring properties.</p> <p>An acoustic report was submitted as part of this application, and it is noted that there is no objection to the potential noise transmission within the surrounding area. It is further noted that operation hours would be between 7am-6pm and as such would not impact sleeping areas of adjacent and future developments. The proposed driveways are located at the front of the site and does not adjoin a classified road.</p>	<p>Yes</p>
<p>2.14.10 Solar Access At least 50% of the required private open space within the subject property and that on</p>	<p>Shadow diagrams submitted denote that most of the rear facing open play areas will be subjugated to shadows. Furthermore, the below ground nature of indoor playrooms</p>	<p>No</p>

adjoining properties, is to receive direct sunlight for a minimum of 4 hours between 9am and 3pm on 21 June.

Living areas of dwellings shall be orientated to the north wherever possible.

Maximise the amount of direct sunlight available to clothes drying areas.

Where possible, orient buildings 30 degrees east and 20 degrees west of true north. This is illustrated in the following diagrams:



Where winter solar access is not optimum consider the use of double-glazing or high-performance glass.

Windows should have suitable shading or other solar control to avoid summer overheating.

Consider the use of horizontal shading devices (for north facing windows) including eaves, verandahs, pergolas, awnings and external horizontal blinds to allow low winter sun whilst providing shade from high summer sun.

West facing windows can cause excess heat in summer. If suitable, minimise the size of east and west facing windows, or consider external vertical shading devices such as vertical blinds, blade walls and thick vegetation.

Shading elements are to be integrated into the overall elevation design.

within the lower ground floor entail that no natural sunlight will be received to these spaces.

2.14.11 Ventilation
Maximise ventilation and consider fans, louvered windows and seals.

The lower ground floor plan fails to demonstrate cross ventilation to the indoor playrooms to this floor.

No

2.14.12 Lighting
Lighting to comply with BCA and maximise natural lighting

Noted.

Noted

<p>2.14.14 Car Parking and Vehicular Access Car parking is to be provided in accordance with Part C Section 1 – Parking. Driveways and parking areas should enable the opportunity for landscape screening and be convenient and safe.</p> <p>At least one car parking space must be provided behind the front building line.</p> <p>Single garages: Minimum 5.5m x 3.0m.</p> <p>Double garages: Minimum 5.5m x 5.0m.</p>	<p>The proposal fails to provide 32 car spaces with only 22 being provided.</p> <p>Proposed: 11 Staff 11 Visitor/Parents</p> <p>Note: as access onto Windermere Avenue (and its local access roads) are derivative solely off Windsor Road, the proposed development is expected to meet off street parking requirements. The proposal’s design of an at-grade car park inhibits the site’s ability to meet 32 car parking spaces. An amended design considering a basement approach and/or a reduction in place numbers is required before Council can support the development.</p>	<p>No</p>
<p>2.14.15 Access and Surveillance (a) Site planning and dwelling design is to allow general observation of the street, the site and the approaches to the dwelling entry from the inside of each dwelling. (b) Access to dwellings is to be direct and without unnecessary barriers. For example, use ramps instead of stairs/steps, consider the height and length of handrails and eliminate changes in level between ground surfaces. (c) Stairs and ramps are to have reasonable gradients and non slip even surfaces. Refer to Australian Standard 1428.1 - 2001 Design for Access and Mobility and supplementary AS 1428.2 - 1992.</p>	<p>The proposed building envelope incorporates a side entryway into the main building. In this regard, the façade walls to the undercover parking spaces inhibit sight lines to and from the public domain.</p> <p>Further, no walls/fencing have been provided separating pedestrian pathways from parking spaces. The lack of a delineation between parking and pathways allows for hazards with children crossing onto vehicular pathways.</p>	<p>No</p>
<p>2.15 Fencing Site specific fencing controls apply to land adjoining Heritage Park and at the corner of Old Windsor Road and Seven Hills Road, Baulkham Hills (Refer to Appendix C– Precinct Plan Maps and Site Specific Controls).</p> <p>Any boundary fencing shall be subject to the requirements of the Dividing Fences Act 1991.</p> <p>Front fencing is to be consistent with the height, scale, and style of existing fencing in the street. Where there are no existing front fences, front fences are not supported.</p> <p>Where front fencing over 1.2 metres in height is proposed, this shall be of open style.</p>	<p>Fencing proposed is considered to be suitable. Council’s Landscape Officer has requested the addition of a landscape buffer to be located along the rear property boundary. Council to date has not received any such amended plans.</p>	<p>No</p>

<p>Any fencing in the front setback over 1.2m in height shall be setback from the front boundary a minimum of 500mm to allow opportunities for landscaping to soften the impact of the fence.</p> <p>Consideration will be given to fencing on secondary road frontage setbacks, subject to there being no adverse effect on the immediate area and on traffic visibility and be of a design to incorporate features such as landscaping bays or a variation/combination of materials.</p> <p>Side and rear boundary fencing should be a maximum of 1.8 metres in height.</p>		
<p>2.16 Waste Management</p> <p>Adequate storage for waste materials must be provided on site.</p> <p>All waste storage areas must be screened from view from any adjoining property or public place.</p> <p>Bin storage space is to be:</p> <p>incorporated into the landscape design of each dwelling; and</p> <p>adequate for one 240 litre garbage bin and one 240 litre recycling bin per dwelling.</p> <p>Location of the bin storage space must allow the bins to be wheeled to the street kerb over flat or ramped surfaces with a maximum grade of 7% and not over steps, landscape edging or gutters or through the dwelling.</p>	<p>An adequate storage and waste management plan has been provided as part of this application.</p>	<p>Yes</p>
<p>2.17 Services</p> <p>Ensure sufficient water supply and disposal of sewage measures are available.</p> <p>All water, gas, power and communication services are to be located underground.</p>	<p>Yes</p>	<p>Yes</p>
PART C SECTION 3 LANDSCAPING		
CONTROL	PROPOSED	COMPLIANCE
3.1. General Planning and Design Controls		
<p>(a) The landscaping of any site should have regard to the natural environment of the location and be consistent with landscaping character of the area.</p>	<p>Council's Landscape Officer has reviewed the application and notes that the submitted design does not sufficiently address all landscape matters. See landscape comments.</p>	<p>No</p>
<p>(b) Landscaped areas shall have a minimum width of two metres</p>		
<p>(h) For all planting on slab and planter boxes allow the following minimum soil depths:</p> <ul style="list-style-type: none"> • 1.2m for large trees, 1m for medium trees and 800mm for small trees. 		

<ul style="list-style-type: none"> • 500-600mm for shrubs • 200-450mm for groundcovers; and • 200mm for turf. 		
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10. Development Contributions

As this Development Application was lodged on the 7th of December 2022, the City of Parramatta Council Section Outside CBD Development Contributions Plan 2021 applies to the land.

A standard condition of consent would be imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

11. Bonds

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

13. The likely impacts of the development

The assessment demonstrates that the proposal will have adverse impacts on the immediate locality and fails to demonstrate how the proposed design in its current form conforms the R2 – Low Density Residential zone. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as tree removal and excavation, and built environment impacts such as traffic and build form. In the context of the site and the assessments provided by Council's experts, the development fails to address the environmental impacts brought on by a Centre based childcare development.

14. Suitability of the Site

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

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

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

The proposed development in its current form however fails to demonstrate a suitable bulk and scale for the zoning it is sited within. The proposed building design and parking provision are noted to be out of character for the area and do not meet the relevant assessment criteria.

15. Public Consultation

In accordance with the Council's consolidated notification procedures, the Development Application was notified and advertised from the 16th of December 2023 to the 11th of January 2023. Upon the completion of the notification period, a total of twenty-eight (28) submissions were received within the notification period with a further four (4) received outside of the period.

Key concerns raised in the submissions are addressed below:

Issue	Response
Off street parking.	<p>Concern has been raised with regard to the number of off-street parking spaces on the site. As discussed elsewhere within this report, the proposal has a shortfall of ten (10) parking spaces noting that twenty-two (22) parking spaces have been provided.</p> <p>As the proposed parking has implications with regard to building design and streetscape, Council cannot support the proposed parking situation, and this has been recommended as a reason for refusal.</p>
Heritage properties within the immediate vicinity & heritage value of the existing dwelling on site	<p>The site is not identified as a heritage item and is not located within a heritage conservation area; However, the site is located in the vicinity of a local heritage item at 10 Windermere Avenue (1424) & 18 Windermere Avenue (1425). Council's Heritage Advisor has advised on the high retention value of the site and has requested a further assessment of heritage significance. Notwithstanding however, Council has raised with the removal landscaping forward of the building and its implication on the surrounding properties inclusive of the two heritage items towards the East & West.</p>
Building height	<p>Concern has been raised for the third storey element proposed as well as the variance to the 9m height limit.</p> <p>Council has noted that the rearrangement of internal spaces and parking in conjunction with a reduce number of places proposed would allow for some rearrangement of internal amenity that allows for reduced bulk towards the rear of the development. In this regard Council cannot support the proposed development in its current form and this has been raised as a reason for refusal.</p>
Easement & stormwater drainage	<p>Concern has been raised with regard to the proposed easement location. Whilst the proposed location of a downstream easement has not been supported by Council, a centre-based childcare on this site will require an easement to drain. In this regard, whilst Council has refused the development on the basis incompatible stormwater design future development of a centre-based childcare will require an easement.</p>
Zoning	<p>The site is zoned as R2 – low density residential under the Parramatta (former the Hills) Local Environmental Plan 2012 and the same zoning applies under the Parramatta Local Environmental Plan 2023. Under both these plans a centre-based childcare is permitted with consent.</p>
<p>Traffic Movements and Congestion Unacceptable increase in traffic movements and congestion and parking.</p>	<p>A Traffic Impact Assessment (TIA), prepared by McLaren (10 November 2022) was submitted as part of this Development Application. The TIA concluded that a total of 62 - 70 trips will be generated per day.</p> <p>Council's Traffic Engineer reviewed the proposal with regarding to traffic generation and noted:</p> <p><i>Based on the results of the traffic modelling, the report indicates that the intersection of Windsor Road / Windermere Avenue and Windermere Avenue / William Street all retain the same worst movement overall level of service under future conditions, indicating that there will be negligible impact on the existing road network as a result of the proposed development.</i></p> <p>Based on this, the proposed development is not expected to have a significant impact on the surrounding road network.</p> <p>Notwithstanding, Council has raised concern with the amount of off-street parking spaces provided and will note that revision in parking space may require a modification to the submitted TIA.</p>

<p>Amenity (Noise)</p>	<p>An Acoustic Report, prepared by Day Design (29 November 2022) was submitted as part of this Development Application. The report concludes:</p> <p><i>Calculations show that, provided the recommendations in Section 8.0 are implemented, the levels of noise emission from the Centre and of intrusive noise at the Centre will meet the acoustic requirements established in Section 5.5 and will therefore be acceptable.</i></p> <p>Council’s Environmental Health Officer reviewed the report and raised no objections to the findings.</p> <p>Appropriate conditions of consent would have been imposed requiring the recommendations of the Acoustic Report to be incorporated into the design of the development should the application have been recommended for approval.</p>
<p>Amenity (Quality of life) Amenity concerns for neighbouring properties (Negative impact on quality of life as a result of excessive noise)</p>	<p>See discussion above regarding Council’s assessment of the noise impact from the centre.</p> <p>This matter is not considered determinative to the assessment of this Application.</p>

16. Public interest

The proposed development, in its current form, is not site responsive and would result in an inappropriate centre-based childcare development that is not in the public interest.

17. Conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is not* suitable for the site and *is not* in the public interest. Therefore, it is recommended that the application be *refused*.

18. Recommendation

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

- a. **That** the variation to Clause 4.3 Height of Buildings pursuant to Clause 4.6 the Parramatta (former The Hills) Local Environmental Plan 2012 not be supported: and
- b. **That** the Local Planning Panel, exercising the function of the consent authority, refuse development consent to DA/964/2022 for the demolition of existing structures, tree removal and construction of a part two storey part three storey, 88-place Child Care Facility at 14 Windermere Avenue, Northmead for the following reasons:

State Environmental Planning Policy (Transport & Infrastructure) 2021

1. Pursuant to Clause 3.27(1)(d)(i), the application fails to demonstrate compliance with matters raised within the Childcare Planning Guidelines to an acceptable degree.

Per Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979

Parramatta (former The Hills) Local Environmental Plan 2012

2. The proposed development exceeds the prescribed maximum height of building of 9 metre as prescribed in Clause 4.3 and does not meet Objectives (a), (b) & (e).

Per Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979

The Hills Development Control Plan 2012

3. Pursuant to Section 2.34 (e), the proposed development fails to provide a 5m setback to car parking spaces.
4. Pursuant to Section 2.34 (j) & (k), the proposed development fails to demonstrate a suitable landscape plan as required.
5. Pursuant to Section 2.2 (a), a total of four (4) accessible car spaces are required. Only one (1) space has been dedicated to accessible parking.
6. Pursuant to Section 2.14.2, the proposed development fails to demonstrate a suitable site coverage and dwelling footprint leading to excessive bulk and scale that is unfound within the locality.
7. Pursuant to Section 2.14.10, the proposed development inhibits solar access onto its rear outdoor play area, with little solar access shown to be achieved towards the lower ground floor internal play areas.
8. Pursuant to Section 2.14.11, the proposed development fails to demonstrate how the lower ground indoor play areas will be suitably ventilated noting that these spaces are located below the finished ground level.
9. Pursuant to Section 2.14.14, the proposed development fails to accommodate thirty-two (32) off-street car parking spaces.
10. Pursuant to Section 2.12, the proposed development does not achieve satisfactory stormwater drainage arrangements.

Per Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979

Suitability of the Site

11. The proposed development exhibits an excessive built form as demonstrated in the non-compliant building height and floor space ratio applicable to the site that would undermine the anticipated building transition for the Thomas Street locality which is unsuitable for the site.

Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979

Submissions

12. The issues raised in the submissions demonstrate that the proposed development cannot be supported in its current form.

Per Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979

Public Interest

13. The proposed development is not site responsive and would result in an inappropriate Centre-based Childcare Development that is not in the public interest.

Per Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979

- c. **Further**, that the objectors be advised of the Panel' decision.