



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SWC041
DA Number	DA/158/2017
LGA	City of Parramatta
Proposed Development	Amalgamation of three (3) allotments, demolition of existing structures and construction of a child care centre with 99 child places and associated car parking with 25 car parking spaces. The application will be determined by the Sydney Central City Planning Panel.
Street Address	49 North Rocks Road (Lot 12 DP 22931); 51 North Rocks Road (Lot 13 DP 22931); and 2 Speers Road (Lot 118 DP 23173), North Rocks, NSW 2151
Applicant/Owner	Angsana Range Pty Ltd (Applicant)/ Mr Q D Nguyen and Mrs C C T N Nguyen (Owner)
Date of DA lodgement	1 March 2017
Number of Submissions	Advertising period: 13 unique submissions including 1 petition with 68 signatures from 50 households and 12 individual submissions; and Re-advertising period: 19 individual submissions
Recommendation	Refusal
Regional Development Criteria (Schedule 4A of the EP&A Act)	Private infrastructure and community facilities with Capital Investment Value (CIV) in excess of \$5 million. The proposed development has a CIV of \$6,564,800.
List of all relevant s79C(1)(a) matters	Environmental Planning and Assessment Act 1979; Environmental Planning and Assessment Regulation 2000; SEPP 55 - Remediation of Land; SEPP (Infrastructure) 2007; SEPP (Vegetation in Non-Rural Areas) 2017; SEPP (State and Regional Development) 2011; SEPP (Educational Establishments and Child Care Facilities) 2017; The Hills Local Environmental Plan 2012; The Hills Development Control Plan 2012.
List all documents submitted with this report for the Panel's consideration	Architectural Plans; Stormwater Plans; Landscape Plan; Statement of Environmental Effects and supplementary planning response letter; Operational Plan; Acoustic Report; Stormwater Management Report; and Traffic and Parking Impact Assessment Report.
Report prepared by	Sohini Sen, Senior Development Assessment Officer
Report date	28 March 2018

Summary of s79C matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No (refusal recommendation)**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report



City of Parramatta

File No: DA/158/2017

SECTION 4.15 ASSESSMENT REPORT – THE HILLS LEP 2012 Environmental Planning & Assessment Act 1979

APPLICATION SUMMARY

DA No:	DA/158/2017 (SCCPP Ref: 2017SWC041)
Property:	49 North Rocks Road (Lot 12 DP 22931); 51 North Rocks Road (Lot 13 DP 22931); and 2 Speers Road (Lot 118 DP 23173), North Rocks, NSW 2151
Proposal:	Amalgamation of three (3) allotments, demolition of existing structures and construction of a child care centre with 99 child places and associated car parking with 25 car parking spaces. The application will be determined by the Sydney Central City Planning Panel.
Date of receipt:	1 March 2017
Applicant:	Angsana Range Pty Ltd
Owner:	Mr Q D Nguyen and Mrs C C T N Nguyen
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:	Advertising period: 13 unique submissions including 1 petition with 68 signatures from 50 households and 12 individual submissions; and Re-advertising period: 19 individual submissions
Recommendation:	Refusal
Assessment Officer:	Sohini Sen

LEGISLATIVE REQUIREMENTS

Zoning:	R3 Medium Density Residential pursuant to The Hills Local Environmental Plan 2012.
Other relevant legislation/state environmental planning policies (SEPP)/policies:	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, SEPP 55 - Remediation of Land, SEPP 64 - Advertising and Signage, SEPP (Infrastructure) 2007, SEPP (Vegetation in Non-Rural Areas) 2017, SEPP (State and Regional Development) 2011, SEPP (Educational Establishments and Child Care Facilities) 2017, and The Hills Local Environmental Plan 2012.
Planning Controls & Policies	Parramatta Section 94A Contributions Plan 2017 (Former Hills LGA Land), The Hills Development Control Plan 2012, Policy for the handling of unclear, insufficient and amended development applications.
Heritage / Heritage Conservation Area	No
Integrated development	No
Designated development	No

EXECUTIVE SUMMARY

This report is an assessment of a Development Application (DA) made to City of Parramatta Council seeking consent for the amalgamation of (3) allotments, demolition of existing structures and construction of a child care centre to accommodate 99 children with associated car parking on land at 49 and 51 North Rocks Road and 2 Speers Road, North Rocks.

The application is referred to the Sydney Central City Planning Panel (SCCPP) pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979 as the development is for private infrastructure and community facilities and has a Capital Investment Value (CIV) in excess of \$5 million. The proposed development has a CIV of \$6,564,800.

The site is located on land zoned R3 Medium Density Residential under The Hills Local Environmental Plan 2012 (THLEP 2012).

The bulk, and scale of operation of the child care centre sought exceeds that envisaged for the site, particularly having regard to the accommodation of car parking generated by the use on site; setback to adjoining properties; privacy impacts resulting from the location and number of children within external play areas; site coverage; and landscaped area capable of deep soil planting. In this regard, the proposal is inconsistent with the aims and relevant clauses of The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012.

Based on a detailed assessment of the proposal against the applicable planning controls, the proposed child care centre does not satisfy the appropriate controls and legislative requirements. Accordingly, it is recommended that SCCPP, as the determining authority, refuse this application for the reasons detailed within the "Recommendation" section of this report.

RELEVANT BACKGROUND

The relevant background for this application is outlined below:

Table 1: Development history for the subject site

16 November 2016	Pre-lodgement meeting (PL/189/2016) A pre-lodgement meeting was held with Council for amalgamation of three allotments, construction of childcare centre for 150 children and approximately 20 staff at 49-51 North Rocks Road and 2 Speers Road, North Rocks. The proposal included basement parking for 49 vehicles. The key issues discussed during this meeting included: <ul style="list-style-type: none">• Compliance with indoor and outdoor open space requirements;• Location of outdoor play areas;• Acceptable front and secondary setbacks;• Minimisation of cut and fill;• Compliance with DCP car parking rates;• Variation to basement level control for child care centres; and• Suitable fencing.
1 March 2017	Development Application (DA/158/2017) The subject Development Application DA/158/2017 was lodged with Council seeking consent for demolition of existing structures, tree removal, amalgamation of three allotments and construction of a child care centre for 124 children and car parking for 24 vehicles.
13 March 2017	Internal referral comments from Council's Traffic Engineer received.

15 March 2017	Advertising period commenced (15 March until 29 March 2017).
16 March 2017	Site inspection undertaken by assessing officer.
22 March 2017	Internal referral comments from Council's Environmental Health Officer received.
30 March 2017	A request for additional information was sent to the applicant requesting the following amendments/additional information: <ul style="list-style-type: none"> • Compliance with DCP car parking rates; • Clarification of ramp gradients, splays at the car park entry and driveway; • Revised drainage plans; • Operational details for functions outside of centre hours; • Safer by Design Statement; • Relocation of nursery area; • Details of external lighting; and • Provision of longitudinal sections.
6 April 2017	Internal referral comments from Council's Social Outcomes Officer received.
8 April 2017	Internal referral comments from Council's Tree and Landscape Officer received.
10 May 2017	The applicant submitted a revised concept proposal with 46 car parking spaces to comply with DCP requirements and the requested details and documentation outlined in Council's additional information request dated 30 March 2017. No formal submission of amended plans was made at this stage.
15 June 2017	The application was presented to Council's Design Excellence Advisory Panel where both the submitted proposal and revised concept proposal were presented to the panel for consideration. The panel indicated preference for the original submitted proposal and noted that a shortfall of on-site parking may be justified by the possibility of short stay parking along Speers Road. The panel were supportive of the proposal as originally submitted.
15 June 2017	Internal referral comments from Council's Building Surveyor received.
14 July 2017	A request for additional information was sent to the applicant following receipt of internal referrals and submissions during the notification period requesting the following issues were raised: <ul style="list-style-type: none"> • Compliance with DCP car parking rates and traffic safety comments; • Setbacks; • Scale of development; and • Issues raised within submissions
20 July 2017	A meeting was held with the applicant to discuss the application. The key issues discussed within this meeting included: <ul style="list-style-type: none"> • The aims of the Hills LEP 2012 and consistency with the R3 medium density objectives; • Interface of the development to adjoining properties; • Scale of development; and • Traffic, parking and safety.
31 July 2017	Further advice was provided to the applicant advising that Council may consider applying flexibility to the staff parking rates if full compliance was unachievable however Council's traffic engineer advised that only a maximum deficiency of 1 or 2 parking spaces would be acceptable.
2 August 2017	The application was briefed to the SCCPP on site where the panel members inspected the site and surrounds. The key issues discussed during this meeting included: <ul style="list-style-type: none"> • Site suitability for intended use questionable for a centre of this size, location and zoning; • Planned land coverage excessive;

	<ul style="list-style-type: none"> • Parking and access problematic; and • Traffic movement issues for intended use.
16 August 2017	Advice was provided to the applicant with the SCCPP briefing meeting comments and the applicant was advised that the proposal was not supported and should be withdrawn.
31 August 2017	<p>A meeting was held with the applicant to discuss the application. The key issues discussed were:</p> <ul style="list-style-type: none"> • Traffic safety; • Parking, access and manoeuvring; • Scale of the development; • Excavation; • Deep Soil Areas; and • Setbacks. <p>The applicant was advised to withdraw the Development Application or the application would be determined based on the information submitted to date and recommended for refusal.</p>
6 October 2017	The applicant's town planner advised amended plans would be submitted.
22 December 2017	Amended architectural plans, traffic impact assessment and intersection details were received by Council.
4 January 2018	Further referral comments from Council's Traffic Engineer received.
23 January 2018	Amended stormwater and landscape plans were received by Council.
9 February 2018	Advice was provided to the applicant regarding non-compliance with parking spaces, requirement for a conciliation conference due to the number of submissions received, and seeking confirmation to proceed with the assessment.
13 February 2018	Applicant advised that they did not wish to attend a conciliation conference and to proceed with assessment of the application.
22 February 2018	Internal referral comments from Council's Development Engineer received.
28 February 2018	Application re-advertised between 28 February and 14 March 2018.
27 March 2018	Further referral comments from Council's Development Engineer received.

PROPOSED DEVELOPMENT

Pursuant to Clause 4.12(1) of the EPA Act 1979 (as amended) this application seeks consent for amalgamation of (3) allotments, demolition of existing structures and construction of a child care centre to accommodate 99 children with associated car parking and signage.



Figure 1 – Site plan of proposed child care centre. *Source: Andrew Burges Architects*

A detailed summary of the proposal is provided as follows:

Demolition works

- Demolition of four (4) dwelling houses and associated structures on land at Lots 12 and 13 in DP 22931, 49-51 North Rocks Road and Lot 118 in DP 23173, 2 Speers Road, North Rocks.

Tree Removal

- Removal of vegetation including nine (9) trees across the development site.

Construction

- Construction of 2-storey child care centre to accommodate 99 children with basement level car parking for 25 vehicles including:

Basement Level/ Lower Ground Level (RL 36.05)

- Basement level carpark with parking for 25 vehicles including 3 dedicated staff spaces and 1 disabled space; bicycle parking; bin room; laundry room; and plant room;
- Outdoor play area and 2 x 3-5 year indoor play areas for 40 children with associated WC and store rooms.

Ground Level (RL 39.257)

- Administration office; kitchen; pram room; parents room; 3 x 0-2 year indoor play areas for 24 children with associated WCs, cot room and store rooms; library room; 2 x 2-3 year indoor play areas for 35 children with associated WC and store rooms.

Level 1 (RL 42.45)

- Staff room and office; programming room; WCs; and observation room.

Amalgamation of lots

- Amalgamation of Lots 12 and 13 in DP 22931 and Lot 118 in DP 23173.

Staff use of the Child Care Centre

- Approximately seventeen (17) full-time and part-time staff will be employed for the child care centre.

Hours of Operation

The proposed hours of operation are 7:00am until 6:00pm, Monday to Friday.

Amended plans

Amended plans were submitted by the applicant on 22 December 2017 and 23 January 2018 detailing the following amendments:-

- Reduction of the number of child places from 124 to 99 and staff numbers from 20 to 17 staff;
- Relocation of the proposed driveway entrance on Speers Road closer to the intersection of Speers Road and North Rocks Road;
- Provision of a "Seagull" intersection treatment to the intersection of North Rocks Road and Speers Road;
- Reduction in building height to under 9m;
- Reduction of the site coverage from 80% to 74% of the site;
- Increased basement setbacks to 1.5m; and
- Increased secondary frontage setback to 4m.

The amended plans form the subject of this assessment.



Figure 2 – Photomontage of development site entry forecourt looking north-west from North Rocks Road. *Source: Andrew Burges Architects*



Figure 3 – Photomontage of development site lower ground play area looking south-west from Speers Road. *Source: Andrew Burges Architects*

EXISTING SITE AND CONDITIONS

The site is known as 49 North Rocks Road (Lot 12 DP 22931); 51 North Rocks Road (Lot 13 DP 22931); and 2 Speers Road (Lot 118 DP 23173), North Rocks, NSW 2151.

The site is located on the corner of North Rocks Road and Speers Road and comprises three allotments. The site has an area of 2,093m², a frontage of 32.6m to North Rocks Road a frontage of 58.5m and a frontage of 31.2m to Speers Road. The site has a fall of approximately

5m to the west. Entry and exit to and from the site is off North Rocks Road as Speers Road is a cul-de-sac.

No. 49 North Rocks Road contains a single storey brick dwelling and detached fibro garage; No. 51 North Rocks Road contains a single storey brick dwelling and detached garage; and No. 2 Speers Road contains two single storey brick dwellings, attached brick garage and sheds. There are no easements which burdens the sites.

Adjoining development to the south of the site currently comprises medium density development. Adjoining development to the north, east and west of the site currently comprises low density development.

The site is located in close proximity to Northmead Shopping Plaza and recreation areas. The area is serviced by public transport with bus stops along North Rocks Road approximately 50m from the subject site.



Figure 4: Aerial Photo showing subject site in red outline (Source Nearmap 2018)



Figure 5: View of subject site from Speers Road looking west



Figure 6: View of subject site (right) looking east from Speers Road towards the intersection of Speers Road and North Rocks Road



Figure 7: View of existing driveway to No. 2 Speers Road and adjacent property at No. 4 Speers Road looking south

REFERRALS

Internal Referrals	Comment
<p>Development Engineer</p>	<p>The proposed rainwater tank volume credit is not supported. There is no evidence demonstrating the nominated tank volume is available for the next storm event the once the tank is at capacity by the preceding storm. The outflow from the OSD tank is noted to be 34.44l (7.67+26.77) l/s. The resulting discharge is a quite significant amount of runoff. The runoff is likely to be settled at the downstream end (Cul-De -Sac) of Jean Street resulting in flooding at that location. Appropriate measures and assessment of the existing and post development scenarios need to be provided.</p> <p>The submitted cross-section does not show the OSD tank base slope (gradient) and the invert levels of the tank base slab at the far ends. The slope should be at least 1%. This will also affect the tank storage volume as the far end of the tank becomes shallower than that closer to the control pit. The dimensions of the rainwater tank are missing.</p> <p>The OSD tanks require a sufficient numbers of grated openings to allow for cross-ventilation in order to prevent formation of noxious gases within the tank. The grated openings can be fitted with Non-slip grates such as ACO Heelguard or equivalent.</p> <p>There is an inconsistency between the information shown on the architectural, stormwater and landscape plans. The submitted stormwater plans show the play area as being at a different level</p>

	<p>of that of the OSD tank. The stormwater plan is unclear as it shows the floor plan of the basement and lower ground levels as one level. The stormwater plan needs to be amended to remove this conflict.</p> <p>The floor levels shown on the Stormwater plan (viz, SL33.38 of the OSD on the Lower Ground Floor, does not correspond to that shown on the architectural or landscape plans which show the Store and Play area at RL 36.05.</p> <p>In addition, the rainwater tank on the Stormwater plan is shown at the roof level whereas the corresponding architectural plan showing the rainwater tank is at the lower ground level.</p> <p>The pollutant removal efficiency adopted in the MUSIC model needs to be substantiated by supporting documents such as an independent report with the field test data. The stormwater plan does not show the details of the filtration device (Stormstack), model type, dimensions, functional data such as hydraulic and/or pollutant loading rate and water quality filtration (treatment) rate, pollutant removal efficiencies, and hydraulic head requirements. The design certificate from the manufacturer/designer for the proposed arrangement that is incorporated into the stormwater system needs to be submitted to ensure that the appropriateness of the arrangement and design.</p> <p>The following clarification is needed:</p> <p><u>Rainwater tank</u></p> <ul style="list-style-type: none"> • The high flow bypass set at 100m³/s despite the pipe feeding the rainwater tank being only 150mm; and • The overflow pipe diameter being 67mm. <p><u>Stormsack</u></p> <ul style="list-style-type: none"> • The removal efficiency rate adopted for each of the pollutants require supporting documents. <p>In accordance with the field evaluation report published by the manufacturer of the proposed “Stormstack”, the water quality treatment device does not appear to have adequate efficiency as indicated in MUSIC Model results. The MUSIC model appears to be inconsistent with the measures employed. The nodes for the Spell Stormstack have not been received by Council.</p> <p><u>Comment:</u> Insufficient information has been submitted to make a complete assessment of the proposal.</p>										
<p>Tree Removal and Landscape Officer</p>	<p>Supported subject to conditions. The following trees are approved to be removed to facilitate development. Refer to the Arborist Report prepared by Arboreport Vegetation Management Consultants dated 2 February 2017 for tree Nos.:</p> <table border="1" data-bbox="531 1861 1385 2036"> <thead> <tr> <th>Tree No.</th> <th>Name</th> <th>Common Name</th> <th>Location</th> <th>Reason</th> </tr> </thead> <tbody> <tr> <td>1</td> <td><i>Brachychiton acerifolius</i></td> <td>Illawarra Flame tree</td> <td>No 49</td> <td>Poor structural condition</td> </tr> </tbody> </table>	Tree No.	Name	Common Name	Location	Reason	1	<i>Brachychiton acerifolius</i>	Illawarra Flame tree	No 49	Poor structural condition
Tree No.	Name	Common Name	Location	Reason							
1	<i>Brachychiton acerifolius</i>	Illawarra Flame tree	No 49	Poor structural condition							

	2	<i>Jacaranda mimosifolia</i>	Jacaranda	No 49	Poorly pruned
	3	<i>Sapium sebiferum</i>	Chinese Tallow	No 49	Supressed specimen
	4	<i>Jacaranda mimosifolia</i>	Jacaranda	No 49	Poorly pruned
	5	<i>Callistemon viminalis</i>	Bottlebrush	No 49	Poor form
	6	<i>Ceratopetalum gummiferum</i>	NSW Xmas Bush	No 49	Poor structural condition
	7	<i>Grevillea robusta</i>	Silky Oak	No 51	Inclusions – poor structural condition
	8	<i>Jacaranda mimosifolia</i>	<i>Jacaranda</i>	No 51	Poor form
	9	<i>Liquidambar styraciflua</i>	<i>Liquidambar</i>	No 2	Location exemption
	10	<i>Jacaranda mimosifolia</i>	<i>Jacaranda</i>	No 2	Poorly pruned
	11	<i>Jacaranda mimosifolia</i>	<i>Jacaranda</i>	No 2	Poor form
	12	<i>Jacaranda mimosifolia</i>	<i>Jacaranda</i>	No 2	Self -sown specimen
	Street x2	<i>Eucalyptus scoparia</i>	Wallangarra White Gum	Speers Rd	Poor condition

Social Outcomes Officer

It should be noted that the demographic data provided by the applicant, whilst comprehensive, utilises data from the former Parramatta City Council area and not the current City of Parramatta area. However, the data remains indicative of the need for increased child care services in the North Rocks suburb.

The submission provided by the applicant specifies the hours of operation of the centre and the number of staff who will be employed by the centre, both of which meet the requirements of the Hills Shire Council DCP, City of Parramatta's DCP and the National Quality Standards. The submission specifies the breakdown of age ranges that the centre will cater for. However, the applicant states that 24 places or 19.35% of places will cater for children under 2 years of age. This does not meet the City of Parramatta's Child Care DCP 2011 requirements of 33% of places being provided for 0-2yrs in the case of a development providing over 40 child care places.

Many submissions have been made by residents in objection to the proposed development; these can be seen in more detail in Section 3.3. Residents raise significant concern in regards to traffic and associated pedestrian safety risks in and around the site. With increased levels of traffic, it is critical to ensure that appropriate pedestrian safety and vehicle measures are put in place.

	<p>The Statement of Environmental Effects report indicates the unencumbered size of indoor and outdoor space proposed which adequately meets the requirements of the Hills Shire Council DCP 2012 and City of Parramatta's Child Care DCP 2011 requirements. The proposed development is within extremely close proximity to neighbouring residential properties which may cause issues with adjoining properties. Side setbacks will require review.</p> <p>It is critical to ensure that in case of emergency, the large volumes of staff and students who will be utilising the centre have an appropriate evacuation and management plan in place to ensure the safety of all patrons.</p> <p>The potential positive benefits from the proposed development include an additional 124 new childcare places located close by to employment precincts. The increase in child care places will result in new jobs being created.</p> <p>Current research identifies the significant need for long day care children's services in the LGA. Council's strategic policy context supports the delivery of best practice formal childcare to meet community needs. Policies also acknowledge that the quality of the childcare environment and teaching are critical to good child development. City of Parramatta's preferred number of places per childcare service is between 40-75 places. This centre proposes near double the maximum that City of Parramatta would consider.</p> <p>With the current information available, the following recommendations are made:</p> <p>That, the traffic, parking, emergency vehicle access and pedestrian safety related to the amended proposal be reviewed by Council's traffic and transport officers,</p> <p>That, prior to Council's final assessment and determination the development assessment officer work with the proponent to ensure compliance of the Child Care centre in accordance with the Hills Shire Development Control Plan (DCP) 2012, with specific consideration to:</p> <ul style="list-style-type: none"> - The setbacks of the site. - The safety protocols and procedures of the centre with regard to emergency evacuation plans. <p><u>Assessment Officer's Comment:</u> The proposal has been amended to reduce the number of children from 124 to 99. The comments provided by Council's social outcomes officer makes reference to the Parramatta DCP 2011 which is not applicable to the development. The Hills DCP 2012 does not provide requirements for the number of child places or breakdown of age categories. Notwithstanding, the comments indicate that the number of children (and overall scale of development) is excessive for the site.</p>
<p>Environmental Health (Acoustic) Officer</p>	<p>The main issues for adjacent noise receivers will involve noise generated from construction, as well as noise during use, mostly from the air conditioning plant and outdoor play. The Acoustic</p>

	<p>Report has outlined recommendations for the location of A/C plant and has also noted different mitigating strategies depending on the façade chosen for mechanical plant installation.</p> <p>Regarding the noise impacts from children’s outdoor play, the designated outdoor play areas are able to accommodate almost all children according to the predictions outlined in the Acoustic Report, so the age and number of children in any one play area can be managed by the users of the facility in line with the recommendations of the report with relative ease without any adverse impacts on adjacent receivers.</p> <p>The main noise impact for the users of the proposed development will be road traffic noise from North Rocks Road. Attenuating barriers have been proposed to address this noise source, and the internal design has ensured that more acoustically sensitive rooms have been located further away from the noise source. Furthermore, teaching involving outdoor lessons (gardening, composting lessons etc.) will be conducted in the Kitchen Learning space, with only small groups participating in outdoor learning activities at any one time.</p> <p>The construction noise concern will pose the biggest issues for nearby affected residents, so the recommendations for a Construction Noise & Vibration Management Plan, including ongoing Vibration Monitoring in sensitive locations is essential, as outlined by the Acoustic Report.</p> <p>The proposal satisfies the requirements of Council’s controls and can be supported, subject to standard conditions of consent.</p> <p><u>Assessment Officers’ Comment:</u> Although the comments provided by the environmental health officer state that noise generated from outdoor play can be mitigated by managing the number of children playing outside, the outdoor play arrangements as per the operational plan of management state that the hours of outdoor play can range from 8:00am until 4:30pm. This in conjunction with the non-compliant setbacks and proximity of play areas to adjoining windows and private open spaces areas of the adjoining dwellings may have adverse amenity impacts to these properties.</p>
<p>Traffic and Transport Engineer</p>	<p>The site is situated in the area covered by The Hills DCP and the application does not comply with the parking requirement of this DCP. 34 spaces are required and with 25 being provided a shortfall of 9 spaces exists.</p> <p>The car parking layout complies with AS2890.1 apart from the aisle width which needs to be widened by 300mm where it is adjacent to a wall surrounding the lift and stairs.</p> <p>Bicycle parking is not required for childcare development under the DCP but bicycle parking has been provided adjacent to the lift core. Motorcycle parking is not required by the DCP for childcare centres.</p>

	<p>The proposed column locations comply with AS2890.1 and on site manoeuvring swept paths have not been provided but the manoeuvring appears satisfactory. The driveway is satisfactory for the location and width complies with AS2890.1. The driveway and ramp gradient transitions are satisfactory for length but the sag transition should be 1:8 not 1:6.7, to comply with AS2890.1 Sight lines to pedestrians in accordance with AS2890.1 but can be achieved in the landscaped area.</p> <p>The applicant proposes an upgrade to the intersection of Speers Road and North Rocks Road by the construction of a right turn lane and a waiting bay (unprotected) in the centre of North Rocks Road for right turning vehicles. This would remove between 130m and 140m of parking in front of residential properties on North Rocks Road.</p> <p>This arrangement is not favoured because it does not provide protection for the turning vehicles. Vehicles travelling south on North Rocks Road (downhill) travel at or over the speed limit and any seagull arrangement would need to be designed strictly within the guidelines to maintain the safety in this location.</p> <p>The appendices for the traffic report have not been provided. Without these advice of appropriate suggestions as to how to proceed is difficult.</p> <p>The parking issue has been ongoing with this proposed development. The site is within the area covered by The Hills DCP. Assessing the parking against this control results in a 26.5% shortfall in parking for the development. This cannot be supported.</p> <p>Should the parking issue be resolved, then further discussion would be required as to the potential intersection treatment of North Rocks Road and Speers Road to satisfactorily provide a safe and efficient intersection.</p>
External Referrals	Comments
No external referrals required.	

PLANNING CONSIDERATION

The proposal, as amended, has been assessed under the provisions of the *Environmental Planning and Assessment Act 1979*. The matters below are those requiring the consideration of the Sydney Central City Planning Panel (SCCPP).

SECTION 4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.4.15(1)(a)(i))

State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)

An evaluation of the application has been undertaken against Clause 7(1), 7(2) and 7(3) of SEPP 55 and the Managing Land Contamination Planning Guidelines 1998 for assessing potential contamination of a site as follows:-

- *Is the planning authority aware of any previous investigations about contamination on the land? What were the results including any previous evaluations?*

Comment: Council records show no evidence in previous investigations for contamination of the land the subject of this application.

- *Do existing records of the planning authority show that an activity listed in Table 1 has ever been approved on the subject land? (The use of records held by other authorities or libraries are not required for an initial evaluation).*

Comment: Council records show that no uses identified in the table below that may result in contamination were present on the site.

Table 1: Some Activities that may cause contamination

Acid/alkali, plant and formulation	Landfill sites
Agricultural/horticultural activities	Metal treatment
Airports	Mining and extractive industries
Asbestos production and disposal	Oil production and storage
Chemicals manufacture and formulation	Paint formulation and manufacture
Defence works	Pesticide manufacture and formulation
Drum re-conditioning works	Power stations
Dry cleaning establishments	Railway yards
Electrical manufacturing (transformers)	Service stations
Electroplating and heat treatment premises	Sheep and cattle dips
Engine works	Smelting and refining
Explosives industry	Tanning and associated trades
Gas works	Waste storage and treatment
Iron and steel works	Wood preservation

- *Was the subject land at any time zoned for industrial, agricultural or defence purposes?*

Comment: Council's records show that the site was not used for industrial, agricultural or defence purposes.

- *Is the subject land currently used for an activity listed in Table 1 above?*

Comment: Council records and a site inspection reveal that the land is not currently used for a purpose identified at Table 1 above.

- *To the planning authority's knowledge was, or is, the subject land regulated through licensing or other mechanisms in relation any activity listed in Table 1?*

Comment: No.

- *Are there any land use restrictions on the subject land relating to possible contamination such as notices issued by the EPA or other regulatory authority?*

Comment: No.

- *Does a site inspection conducted by the planning authority suggest that the site may have been associated with any activities listed in Table 1?*

Comment: A number of site inspections were undertaken during the course of assessment. No activities in Table 1 were identified.

- *Is the planning authority aware of information concerning contamination impacts on land immediately adjacent to the subject land which would affect the subject land?*

Comment: No. The adjoining sites are currently being used for low density residential development.

- *Has the applicant for development consent carried out the investigation required by subclause 7(2) of SEPP 55 and provided a report on it to the consent authority.*

Comment: No. An investigation is not required.

In view of the above evaluation, and considering the requirements of SEPP 55 and the Managing Land Contamination Planning Guidelines 1998, a site investigation report is not required to be submitted and Clause 7 of SEPP 55 is satisfied.

Were the application recommended for approval, standard asbestos removal conditions would be incorporated into a notice of determination. It is therefore considered that the site poses no risk of contamination and as such no further consideration is required under Clause 7 of the SEPP.

State Environmental Planning Policy No. 64 – Advertising and Signage

The submitted architectural plans indicate locations of potential signage however signage does not form part of this proposal and would be subject to a separate application.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of ISEPP have been considered in the assessment of the development application.

The site is not subject to Clause 45 of the SEPP as is it not within or immediately adjacent to an easement used for electricity purposes, an electricity substation or within 5m of an overhead power line.

The application is not subject to clause 101 of the ISEPP as the site does not have frontage to a classified road. The application is not subject to clause 102 of the ISEPP as the average daily traffic volume of North Rocks Road and Speers Road is less than 40,000 vehicles.

With regards to requirements of Clause 104(2) (b) and, Schedule 3 of the ISEPP, the development does not have a capacity for 200 or more motor vehicles. Therefore, the ISEPP is not applicable.

State Environmental Planning Policy (State and Regional Development) 2011

This application is captured by Part 4 of this SEPP which provides that the SCCPP is the consent authority for this application.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of non-native vegetation from the site and the replacement of native vegetation as part of the landscape plan. Council’s Tree and Landscape Officer has reviewed the application and raised no objections to the removal of the vegetation from the site subject to conditions of consent requiring sensitive construction methods used to protect adjacent vegetation.

The proposed development is consistent with the aims of the SEPP.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

The Sydney Harbour Catchment Planning Principles must be considered and where possible achieved in the carrying out of development within the catchment. The key relevant principles include:

- Protect and improve hydrological, ecological and geomorphologic processes;
- Consider cumulative impacts of development within the catchment;
- Improve water quality of urban runoff and reduce quantity and frequency of urban runoff; and
- Protect and rehabilitate riparian corridors and remnant vegetation.

The site is not located on the foreshore. The proposed development is consistent with the aims of the deemed SEPP.

SEPP (Educational Establishments and Child Care Facilities) 2017

In accordance with Schedule 5(1) of the SEPP, the subject application was made prior the gazettal of this SEPP and proposes a child care centre to be constructed on the site. As such, the provisions of SEPP (Education and Child Care Facilities) 2017 do not apply to the development proposal. Notwithstanding, Schedule 5(2) requires the National Quality Framework Assessment Checklist and Part 4 of the Child Care Planning Guideline as a relevant matter for consideration. An assessment is provided below.

Table 2: Assessment of the proposal against Part 4 of the Child Care Planning Guideline

Part 4 – Applying the National Regulations to Development Proposals	
4.1 Indoor Space Requirements	
<p>Regulation 107 Education and Care Services National Regulations</p> <p>Every child being educated and cared for within a facility must have a minimum of 3.25m² of unencumbered indoor space.</p> <p>Unencumbered indoor space excludes any of the following:</p> <ul style="list-style-type: none"> • Passageway or thoroughfare (including door swings) used for circulation; • Toilet and hygiene facilities; 	<p>Yes. 322m² of indoor space is required for 99 children and 335m² of indoor space is proposed. The proposal complies with 3.25m² of unencumbered indoor space provided for each child.</p>

<ul style="list-style-type: none"> • Nappy changing area or area for preparing bottles; • Area permanently set aside for the use or storage of cots; • Area permanently set aside for storage; • Area or room for staff or administration; • Kitchens, unless the kitchen is designed to be used predominately by the children as part of an educational program e.g. a learning kitchen; • On-site laundry; and • Other space that is not suitable for children. 	
<p>Verandahs as indoor space</p> <p>For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space (refer to Figure 1).</p> <p>Storage</p> <p>Storage areas including joinery units are not to be included in the calculation of indoor space. To achieve a functional unencumbered area free of clutter, storage areas must be considered when designing and calculating the spatial requirements of the facility. It is recommended that a child care facility provide:</p> <ul style="list-style-type: none"> • A minimum of 0.3m³ per child of external storage space; and • A minimum of 0.2m³ per child of internal storage space. 	<p>N/A. The verandah is not included as unencumbered indoor space.</p> <p>Yes. The proposal is required to provide 19.2m³ of internal storage and 29.7m³ of external storage. The proposal provides 71.4m³ of internal storage and 43.57m³ of external storage.</p>
<p>4.2 Laundry and Hygiene Facilities</p>	
<p>Regulation 106 Education and Care Services National Regulations</p> <p>There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.</p>	<p>Yes. Laundry facilities are provided within the basement level. The proposal complies.</p>
<p>4.3 Toilet and Hygiene Facilities</p>	
<p>Regulation 109 Education and Care Services National Regulations</p> <p>A service must ensure that adequate, developmentally and age-appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children. Child care facilities must comply with the requirements for sanitary facilities that are contained in the <i>National Construction Code</i>.</p>	<p>Yes. The proposal complies and adequate and age appropriate toilet, washing and drying facilities are provided.</p>
<p>4.4 Ventilation and Natural Light</p>	

<p>Regulation 110 <i>Education and Care Services National Regulations</i></p> <p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children. Child care facilities must comply with the light and ventilation and minimum ceiling height requirements of the <i>National Construction Code</i>. Ceiling height requirements may be affected by the capacity of the facility.</p>	<p>Yes. The proposal complies.</p>
<p>4.5 Administrative Space</p>	
<p>Regulation 111 <i>Education and Care Services National Regulations</i></p> <p>A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.</p>	<p>Yes. The proposal complies. Administrative space is provided on the ground floor and first floor of the development.</p>
<p>4.6 Nappy Change Facilities</p>	
<p>Regulation 112 <i>Education and Care Services National Regulations</i></p> <p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children. Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the <i>National Construction Code</i>.</p>	<p>Yes. The proposal complies and nappy change areas are provided.</p>
<p>4.7 Premises designed to facilitate supervision</p>	
<p>Regulation 115 <i>Education and Care Services National Regulations</i></p> <p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity. Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the <i>National Construction Code</i>.</p>	<p>Yes. The proposal complies.</p>
<p>4.8 Emergency and Evacuation Procedures</p>	
<p>Regulations 97 and 168 <i>Education and Care Services National Regulations</i></p> <p>Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including:</p> <ul style="list-style-type: none"> • Instructions for what must be done in the event of an emergency; 	<p>Yes. An operational Plan of Management is submitted with the application detailing emergency and evacuation procedures.</p>

<ul style="list-style-type: none"> • An emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit; and • A risk assessment to identify potential emergencies that are relevant to the service. 	
<p>4.9 Outdoor Space Requirements</p>	
<p>Regulation 108 Education and Care Services National Regulations</p> <p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m² of unencumbered outdoor space.</p> <p>Unencumbered outdoor space excludes any of the following:</p> <ul style="list-style-type: none"> • Pathway or thoroughfare, except where used by children as part of the education and care program; • Car parking area; • Storage shed or other storage area; • Laundry; and • Other space that is not suitable for children. <p>Calculating unencumbered space for outdoor areas should not include areas of dense hedges or plantings along boundaries which are designed for landscaping purposes and not for children’s play (refer to Figures 9 and 10).</p>	<p>Yes. When calculating the area of unencumbered outdoor area required using the exclusions provided in this clause, the proposal provides an outdoor area of 697m² where 693m² is required for 99 children.</p>
<p>4.10 Natural Environment</p>	
<p>Regulation 113 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.</p>	<p>Yes. Facilities are proposed within the outdoor plan area that allow children to explore and experience the natural environment.</p>
<p>4.11 Shade</p>	
<p>Regulation 114 Education and Care Services National Regulations</p> <p>The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.</p>	<p>Yes. Shaded areas are provided.</p>
<p>4.12 Fencing</p>	
<p>Regulation 104 Education and Care Services National Regulations</p> <p>Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it. This regulation does not apply to a centre-based service that primarily provides education and care to children over preschool age, including a family day care venue where all children are over preschool age. Child care facilities must also comply with the requirements for fencing and protection of outdoor</p>	<p>Yes. Fencing is proposed along the site boundaries which is suitable so that children under preschool age cannot go over or under it.</p>

play spaces that are contained in the <i>National Construction Code</i> .	
4.13 Soil Assessment	
<p>Regulation 25 Education and Care Services National Regulations</p> <p>Subclause (d) of regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval. With every service application one of the following is required:</p> <ul style="list-style-type: none"> • A soil assessment for the site of the proposed education and care service premises; • If a soil assessment for the site of the proposed child care facility has previously been undertaken, a statement to that effect specifying when the soil assessment was undertaken; and • A statement made by the applicant that states, to the best of the applicant's knowledge, the site history does not indicate that the site is likely to be contaminated in a way that poses an unacceptable risk to the health of children. 	<p>Yes. A statement is submitted within the Statement of Environmental Effects report stating that the site history does not indicate the site is likely to be contaminated as the site has been historically used for residential purposes.</p>

The Hills Local Environmental Plan 2012 (THLEP 2012)

The DA is made pursuant to the THLEP 2012. The relevant matters for consideration under THLEP 2012 for the proposed development are outlined below:

Table 3: THLEP 2012 Compliance Table

Relevant Clause	Compliance
<p>Clause 2.3 Zone objectives and land use table</p>	<p>The site is zoned R3 Medium Density Residential under the provisions of THLEP 2012. Centre based child care facilities are a permissible form of development with consent within the R3 zone.</p> <p>The objectives for the R3 Medium Density Residential zone are to:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment; • To provide a variety of housing types within a medium density residential environment; • To enable other land uses that provide facilities or services to meet the day to day needs of residents; and • To encourage medium density residential development in locations that are close to population centres and public transport routes. <p>The proposed development provides a land use that would provide child care services to meet the day to day needs of residents however the proposed built form scale is inconsistent with that envisioned for development within a medium density residential environment. As such, the development is inconsistent with the R3 zone objectives.</p>
<p>Clause 2.7 Demolition requires consent</p>	<p>Yes. Clause 2.7 of THLEP 2012 states that the demolition of a building or work may be carried out only with development consent. Approval is sought for demolition works. Council's standard conditions relating to demolition works can be included if this application were recommended for approval.</p>
<p>Clause 4.3 Height of buildings</p>	<p>Yes. The maximum permissible building height on this site is 9 metres. The proposed development has a maximum height of 9 metres and complies with this development standard.</p>

Clause 4.4 Floor Space Ratio	N/A. There is no floor space ratio control applicable for this site.
Clause 5.10 Heritage Conservation	Yes. The subject site is not identified as a heritage item however is within the vicinity of a dam at Speers Road Crown Reserve No. 37, 19-21 Speers Road (Item No. A21) which is identified as archaeological site of local significance under Schedule 5 of THLEP 2012. The development proposal is unlikely to impact upon the archaeological site.
Clause 7.1 Acid sulfate soils	N/A. The site is not identified as containing acid sulfate soils.
Clause 7.2 - Earthworks	Substantial cut proposed to accommodate the basement level and fill is proposed towards the north-western part of the site adjacent to Speers Road due to the existing site topography. Were the application recommended for approval suitable conditions of consent will be imposed regarding excavation works.
Clause 7.3 – Flood planning	N/A. The site is not floodprone.
Clause 7.4 – Biodiversity	N/A. The site is not identified as containing terrestrial biodiversity
Claus 7.6 – Landslide risk	N/A. The site is not identified as being a landslide risk.

Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (Section 4.15(1) (a)(ii))

There are no draft Environmental Planning Instruments applying to this proposal.

Provisions of Development Control Plans (Section 4.15(1) (a)(iii))

The Hills Development Control Plan 2012 (THDCP 2012)

The proposal has been assessed against the objectives and controls under THDCP 2012 and associated documents. The relevant matters for consideration under THDCP 2012 for the proposed development are outlined below:

Table 4: THDCP 2012 Compliance Table

Development Control	Comment	Compliance
Part B Section 2 – Residential		
<i>As the development proposal is located on residential zoned land, the proposal has been assessed against the relevant objectives and controls of Part B Section 2 – Residential. Controls have been included only where there are no similar controls in other sections of THDCP 2012 that are specific to medium density development and child care centres such as erosion and sediment control, signage and site coverage etc. Controls which are relevant to the proposal in the DCP sections for medium density development and child care centres are included in separate sections in this table below.</i>		
2.9 Erosion and Sediment Control	An erosion and sediment control plan was submitted with the development application and is satisfactory.	Yes
2.10 Heritage	The site is in the vicinity of a local listed archaeological site (Item No. A21 under Schedule 5 of THLEP 2012). The proposed development does not detract from or impact this item.	Yes.
2.11 Signage	No signage is proposed as part of this application. Any future business identification would be subject to separate development consent.	N/A.
2.12 Stormwater Management	Stormwater plans and supporting documentation was submitted with this application. Council's development engineer has reviewed the information provided and has advised that this information is unsatisfactory and	INSUFFICIENT INFORMATION

	<p>incomplete. As such, there is insufficient information to make a complete assessment and determine whether the proposal meets the objectives and controls of this section of the DCP.</p>	
<p>2.14.2 Site Coverage</p>	<p>The objectives of this control are to:</p> <ul style="list-style-type: none"> i. <i>To maximise the provision of open space;</i> ii. <i>To avoid the creation of drainage and runoff problems, through minimising the amount of impervious area in accordance with Council's ESD Objective 3;</i> iii. <i>To minimise bulk and scale of development;</i> iv. <i>To facilitate spatial separation between buildings;</i> v. <i>To provide for adequate landscaped area; and</i> vi. <i>Maintain the character of existing areas by retaining vegetation.</i> <p>The maximum site coverage permitted in residential zones is 60%. The DCP stipulates that site coverage includes any impervious area including but not limited to buildings, driveways, patios, pools, tennis courts, decks, recreation facilities and the like.</p> <p>Of the maximum permitted site coverage, the building footprint is to be no more than 45% of the site coverage.</p> <p>Impervious areas are not defined with THDCP 2012. For the purposes of this calculation, the proposed landscaped areas located over the basement level are included as site coverage as these areas have a minimal soil depth to allow for adequate drainage and are therefore considered to be impervious.</p> <p><u>Requirement</u> Based on the subject site, the maximum site and building footprint coverage permissible is:</p> <p>Site coverage: 60% of 2,093m² = 1,255.8m² Building footprint: 45% of 1,255.8m² = 565.11m²</p> <p><u>Proposed</u> The maximum site and building footprint coverage proposed is:</p> <p>Site coverage: 74% = 1,547.93m² Building footprint: 51.9% = 652m²</p> <p><u>Discussion:</u> The proposal exceeds both the maximum site coverage and building footprint permissible on the site by 14% and 6.9% respectively. In the absence of a floor space ratio control, the site coverage control in conjunction with setback, deep soil and landscaped area controls guides the scale of the development. The significant departure from this development control (and non-compliance with landscaped area and deep soil controls as discussed further in this table), demonstrates that the proposed bulk and scale of development is excessive for the site.</p> <p>The proposed development is inconsistent with the objectives of this control in that the bulk and scale of the development is excessive and adequate landscaped area is not provided.</p>	<p>NO.</p>

	The proposal is unacceptable in this regard.	
2.4.7 Cut and Fill	The proposed development includes excavation to create a basement level across approximately half the site due to the site topography. Were this application recommended for approval, appropriate conditions regarding excavation and erosion and sediment control would be recommended.	Yes.
2.14.10 Solar Access	The submitted shadow diagrams indicate that adjoining properties are able to achieve the minimum solar access requirements of at least 50% of the required private open space areas receiving direct sunlight for a minimum of 4 hours between 9am and 3pm on 21 June.	Yes.
<p>Part B Section 4 – Multi Dwelling Housing <i>As the development proposal is located on land zoned R3 medium density residential, the proposal has been assessed against the relevant objectives and controls of Part B Section 4 – multi dwelling housing in addition to Part B Section 2 - Residential. Controls specific to multi dwelling housing have been included only where there are no similar controls in other sections of THDCP 2012 that are specific to child care centres such setbacks, landscaped area and visual and acoustic privacy etc. Controls which are relevant to the proposal in the DCP section for child care centres are included in separate sections in this table below.</i></p>		
3.3 Setbacks	<p>The objectives of this control are:</p> <ul style="list-style-type: none"> i. <i>To provide an open streetscape with substantial areas for landscaping and screen planting;</i> ii. <i>To minimise overshadowing of adjoining properties;</i> iii. <i>To protect privacy and amenity of any adjoining land uses in accordance with Council's ESD objective 7; and</i> iv. <i>To ensure developments are compatible with the character of surrounding housing areas in respect of the quantity and quality of open space.</i> <p>While existing development is predominantly single detached dwellings along Speers Road, this land is zoned for medium density development and it is anticipated that future development along this street will be for medium density development. As such, the setback requirements for multi-dwelling housing are appropriate for the subject development.</p> <p><u>Building setback requirement 1 – Setbacks to trees</u></p> <p>THDCP 2012 states that setbacks are to be established so that any trees located within 10 metres of the front boundary and 4.5 metres of any rear or side boundary can be retained.</p> <p>Two trees are proposed to be removed from the front setback of the site to accommodate the basement car park.</p> <p><u>Building setback requirement 2 – Building alignment</u> Primary road frontage = 10m Secondary road frontage = 6m Side setback = 1.5m (single storey component for 5m)/ 4.5m (remainder of single storey component)/ 6m (second storey component)</p> <p>Proposed setbacks Primary road frontage = 6m</p>	NO.

	<p>Secondary road frontage = 4m- 6m Side setback = 1.3m-4.4m (single storey component)/ 1.2m- 2.7m (second storey component)</p> <p>The proposal does not meet the DCP building setback requirements.</p> <p><u>Building setback requirement 3 – Basement car park</u> THDCP 2012 requires that:</p> <ul style="list-style-type: none"> • Basement car parks must not cover the whole site as this restricts the opportunity to retain existing trees and provide for deep-rooted planting; • Any basement car parking shall be located so as to ensure any trees identified are protected and must be a minimum of 5 metres from the tree or clear of the drip line. This will be measured in the manner specified above; • Basement car parking cannot encroach into the front setback area; and • Where there are no significant trees in the setback area basement car parking must be a minimum of 2.5 metres from any side or rear boundary. <p><u>Discussion:</u> The proposed basement setback is less than 2.5m from the site boundaries (1.2m from the side boundary and 0.7m from the front boundary).</p> <p>The proposal does not meet the minimum building setback and basement setback requirements. The submitted shadow diagrams indicate that this non-compliance will not result in adverse solar access impacts to adjoining properties however will result in acoustic and visual privacy impacts due to the proximity of child outdoor play areas and walkways to adjoining properties to the south. The windows of the 0-2 nursery building (W64) and 2-3 year old play building (W26, W27 and W28) are in close proximity to the dwelling windows of No. 47 North Rocks Road and No. 4 Speers Road respectively. These privacy impacts are inconsistent with the objectives of this control which include protecting privacy and amenity of adjoining properties. The extent of excavation to the front site boundary is also inconsistent with the objectives of this control which includes providing an open streetscape with substantial areas for landscaping and screen planting.</p> <p>The non-compliance with the setback controls are unacceptable.</p>	
3.4 Height of Buildings	Refer to LEP compliance table.	Yes.
3.7 Landscaped area	<p>The objectives of this control are:</p> <ol style="list-style-type: none"> i. <i>To provide a satisfactory relationship between buildings, landscaped areas and adjoining developments;</i> ii. <i>To minimise stormwater runoff and provide the opportunity for on-site groundwater recharge in accordance with Council's ESD objective 3;</i> iii. <i>To ensure a high standard of environmental quality in multi dwelling housing developments</i> 	NO.

	<p><i>and the overall visual amenity and character of the neighbourhood in accordance with Council's ESD objective 7;</i></p> <ul style="list-style-type: none"> <i>iv. To ensure that landscaped areas can be efficiently maintained;</i> <i>v. To ensure that existing trees are given every opportunity to be incorporated into the final design;</i> <i>vi. To ensure that vegetation removed as a part of the land development process is replaced by suitable endemic species in accordance with Council's ESD objective 4;</i> <i>vii. To avoid the creation of drainage and runoff problems through minimising the amount of impervious area; and</i> <i>viii. To minimise bulk and scale of the development.</i> <p>The DCP stipulates that where basement car parking is proposed, a minimum of 30% of the developed site must be capable of deep-rooted planting. Landscaped areas are to have a minimum width of 2 metres.</p> <p>The proposed landscaped areas that are located over the basement level are not included within the landscaped area calculations as these areas are not capable of deep soil planting (artificial turf is proposed in these areas as per the submitted landscape plan). Only areas with a minimum width of 2m have been included.</p> <p><u>Landscaped area required</u> 30% of 2,093m² = 627.9m²</p> <p><u>Landscaped area proposed</u> 21.3% = 446.7m²</p> <p>Discussion: The proposal falls short of the minimum landscaped area capable of deep-rooted planting by 8.7%. The significant departure from this development control in conjunction with the site coverage non-compliance), demonstrates that the proposed scale of development is excessive for the site.</p> <p>The proposed development is inconsistent with the objectives of this control to minimise stormwater runoff and impervious area, and minimise bulk and scale.</p> <p>The proposal is unacceptable in this regard.</p>	
3.9 Building Materials	The proposed building materials are suitable for the proposed use as a child care centre and reflect the contemporary architectural style of the development.	Yes.
3.10 Building Design and Streetscape	<p>THDCP 2012 requires that applicants must refer to "Baulkham Hills Multi-Unit Housing: Urban Design Guidelines" (2005) which have been adopted by Council as a guide to best practice in design for multi dwelling housing development. As the development type is not for multi-dwelling housing, this guide is not applicable.</p> <p>The architectural form is varied and articulated with a number of smaller buildings proposed on the site. The</p>	Yes.

	design is visually interesting and consistent with the anticipated contemporary architectural style for future development in this area.	
3.21 Privacy – Visual and acoustic	<p>The proximity of child outdoor play areas and walkways adjacent to adjoining properties to the south is a potential noise source. The windows of the 0-2 nursery building (W64) and 2-3 year old play building (W26, W27 and W28) are in close proximity to the dwelling windows of No. 47 North Rocks Road and No. 4 Speers Road respectively.</p> <p>The submitted operational plan of management states that proposed outdoor play times range from 8:00am – 11:00am and 2:00pm – 4:30pm and the submitted acoustic report indicates the maximum number of children that can be accommodated in these areas will range from 20 to 60 children at any one time. This in conjunction with the proximity of these windows and play areas as a result of the non-compliant setbacks has the potential to adversely impact the amenity of the adjoining properties.</p> <p>The proposal is inconsistent with the objectives of this control which include to site and design buildings to ensure visual privacy and contain noise to prevent unreasonable transmission to adjoining dwellings.</p>	NO.
<p>Part B Section 6 Appendix E – Child Care Centres As assessment of the proposal is provided in accordance with the development controls specific to child care centres</p>		
E1.2 Aims of objectives of this appendix	<p><i>The aims and objectives of this section of THDCP 2012 are to:</i></p> <ul style="list-style-type: none"> <i>i. Ensure child care centre developments are of a high quality and are compatible with neighbouring land uses.</i> <i>ii. Ensure that child care centre developments will not detrimentally affect the environment of any adjoining lands and ensure that satisfactory measures are incorporated to ameliorate any adverse impacts arising from the proposed development.</i> <i>iii. Encourage innovative and imaginative design, with particular emphasis on the integration of buildings and landscaped areas.</i> <i>iv. Ensure the location and design of child care centres does not pose a health or safety risk to staff, children or visitors.</i> <i>v. Ensure adequate and useable outdoor play areas are provided for use by children.</i> <i>vi. Ensure adequate car parking is provided for staff and visitors.</i> <i>vii. Ensure consistency with the aims and requirements of the NSW Department of Community Services.</i> <i>viii. Implement the principles of Ecologically Sustainable Development.</i> <i>ix. Additional objectives covering a range of specific issues related to child care centre developments in the Shire are identified in this Section of the DCP. These specific objectives are all related to the objectives identified above.</i> 	NO.

	The proposal does not meet the aims and objectives of this appendix as adequate car parking is not provided for staff and visitors and the proposal does not meet a number of additional objectives relating to child care centre developments as detailed further in this table.	
E2.1 Site requirements	<p>The objectives of this control are:</p> <ol style="list-style-type: none"> i. <i>To ensure that the site for a child care centre is of a sufficient size to meet the minimum area requirements for indoor and outdoor play space and car parking;</i> ii. <i>To ensure that the proposed site allows for adequate setbacks and high-quality landscaping, and has due regard to the health, safety, and amenity of adjoining land uses;</i> iii. <i>To facilitate a design that minimises adverse impacts on the amenity and privacy of adjoining commercial, residential or rural development; and</i> iv. <i>To ensure that the site and surrounds are located in a healthy and safe environment and do not present any potential hazards to children.</i> <p><u>Site Requirements</u></p> <ul style="list-style-type: none"> • Minimum lot size = 1000m² • Minimum lot width = 22 metres in residential zones • Child care centres shall not have a frontage along a classified road except when located in a rural zone. • Child care centres shall not be proposed on battle-axe allotments. <p><u>Subject Site</u> Lot size = 2,093m² Lot width = The site does not have frontage to a classified road and is not a battle-axe allotment.</p> <p><u>Discussion:</u> Despite meeting the numerical site requirements, the scale of the proposal is not able to be adequately accommodated on the subject site. This is evidenced by the shortfall in required car parking, non-compliance with site coverage, landscaped area and setback controls (discussed within this table). As such, the site is not a sufficient size for the scale of child care centre proposed and is not suitable for the proposed development.</p>	NO.
E2.2 Site Analysis	A site analysis plan was submitted with the application and submitted shadow diagrams indicate that adjoining properties will receive adequate solar access in accordance with the controls in this section of the DCP.	Yes.
E2.3 Hours of Operation	<p>The DCP states that in rural and residential zones, hours of operation are restricted to the following times:</p> <ul style="list-style-type: none"> • Monday to Friday: 7:00am – 6:30pm; • Closed Saturdays, Sundays and Public Holidays. <p>The proposed hours of operation are 7:00am until 6:00pm, Monday to Friday which complies with this section of the DCP.</p>	Yes.
E2.4 Setbacks	THDCP 2012 states that Part B Section 2 – Residential should be consulted with regards to setbacks, depending on the nature and location of the development. As the site is located within a medium density residential zone with future development anticipated to be multi-dwelling	NO- refer to previous discussion on setbacks within this table.

	housing or similar, the required setbacks are in accordance with the setbacks for multi-dwelling housing as outlined in Part B Section 4 – Multi-dwelling housing. Please refer to the section relating to setbacks earlier in this table.	
E2.5 Indoor Areas	<p>The minimum area for indoor play space for each licensed child care centre place has been provided in accordance with the current provisions set out in the Children's Services Regulations 2004.</p> <p>The siting of the outdoor play area allows the provision of adequate supervision and passive surveillance from internal and external areas.</p> <p>Rooms within 3 metres of side boundaries are to store rooms, kitchens and nappy change areas which are low noise generating rooms.</p> <p>The office/administrative components of the child care centre are located on the upper levels of the child care centre.</p>	Yes.
E2.6 External Play Areas	<p>Child play areas are not located within the front setback area. Areas are able to receive adequate light and ventilation and shade features have been proposed.</p> <p>The external play areas are provided over two levels due to the site topography. Barriers have been provided on upper levels to address safety impacts.</p> <p>It is noted that certain outdoor play areas (located towards the southern portion of the site) are located in close proximity to side boundaries and have potential to create adverse noise impacts to adjoining residents. The submitted acoustic report states that these areas could accommodate between 20 – 60 children at any one time. As such, these areas have not been located to minimise noise impacts on adjoining residents.</p>	NO.
E2.7 Building Heights	Refer to the Section B Part 4 assessment within this table.	Yes.
E2.8 Building Design and Streetscape	<p>Part B Section 4 – multi-dwelling housing has been consulted with regards to building design and streetscape as per the DCP controls outlined in this section. Refer to the Section B Part 4 assessment within this table.</p> <p>The applicant has demonstrated compliance with Council's Safer by Design Guidelines with regards to natural surveillance, sightlines, lighting, ensuring entrances are highly visible and that entrapment spaces are eliminated.</p> <p>The development is to be made accessible as required by the Building Code of Australia and Australian Standard 1428.</p>	Yes.
E2.9 Building Materials	The section of THDCP2012 states that the controls relating to building materials are based on the relevant sections within Part B of the DCP. In this instance, the relevant section is Part B Section 4 – multi-dwelling housing. Refer to this section within the assessment table.	Yes.
E2.10 Privacy – visual and acoustic	<p>Visual Privacy</p> <p>The proposed windows that adjoin the southern properties are generally to bathrooms where the window sills would</p>	NO.

	<p>be obscured or a minimum 1.5 metres from the finished floor level. The exception is the southern window to the proposed 0-2 nursery (W64) which faces the side of the dwelling at No. 47 North Rocks Road.</p> <p>Sufficient landscaping has not been provided along the southern boundary. The submitted landscape plan indicates that the proposed mass planting beds include species with maximum mature heights of up to 1 metre which would be insufficient in providing a visual buffer to neighbouring properties.</p> <p>Acoustic Privacy 1.8m high solid fencing is proposed along the boundaries of the site. The non-compliant building setbacks and proposed 3m setbacks to the outdoor play areas located on the southern portion of the site will result in amenity impacts to the southern adjoining properties, particularly as appropriate vegetation buffers have not been provided.</p> <p>Were the application recommended for approval, recommended conditions of consent would include conditions ensuring that the use of the premises including outdoor play areas and car parking areas should not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997 with the sound level output not exceeding 5dB above the ambient background level at the receiver boundary; and that the location of air conditioning systems or any other plant equipment should not cause ‘offensive noise’ with the sound level output not exceeding 5dB above the ambient background level at any common boundary and not exceeding the amenity criteria as specified in the Industrial Noise Policy as published by the Office of Environment and Heritage.</p>	
<p>E2.12 Vehicular Access and Parking</p>	<p>The objectives of this control are:</p> <ul style="list-style-type: none"> • <i>To ensure that the parking demand generated by the development is accommodated on site; and</i> • <i>To ensure that the development considers the design of parking for disabled persons and parents with prams.</i> <p>The proposal does not provide the required number of car parking spaces for the proposed scale of development. Refer to the assessment of parking rates in further in this table.</p> <p>Parking for prams and one accessible parking space is provided within the basement level. All vehicular access for entry and exit movements to and from the site is provided in a forward direction.</p> <p>THDCP 2012 specifies that basement car parking is not permitted for child care centres, with the exception of mixed-use developments. The development is not a mixed use development however a basement car park is proposed. The justification provided by the applicant is that the basement level is required to provide equitable access due to the sloping site topography. A variation to this control could be considered noting the site constraints however as the proposal does not provide adequate car</p>	<p>NO.</p>

	<p>parking for staff and visitors in accordance with THDCP 2012 requirements, the proposal does not meet the objectives of this control which include accommodation of the parking demand generated on the site.</p> <p>The proposal is unacceptable in this regard.</p>	
E2.13 Landscaping	<p>The proposed landscaping along the primary and secondary frontages includes a combination of ground covers, large trees, shrubs, and grass planting. Trees and shrubs are generally provided along side and rear boundaries to screen outdoor play areas with the exception of an outdoor play area and along the southern boundary adjacent to the lower ground buildings.</p>	NO.
E2.14 Fencing	<p>The proposed fencing is 1.8m high. All play areas are appropriately fenced and fencing is designed to prevent children from being able to climb or crawl underneath and to prevent intruders from entering and exiting.</p>	Yes.
E2.15 Lighting	<p>The proposal complies with this section of the DCP as suitable lighting is provided on the site. Were the application recommended for approval, conditions of consent would be recommended so that lighting is provided and installed in accordance with the Building Code of Australia, and that external lights are positioned and adjusted to ensure compliance with Australian Standard 4282-1997 "Control of Obtrusive Effects of Outdoor Lighting."</p>	Yes. Able to comply.
E2.20 Food preparation facilities	<p>THDCP 2012 requires that food preparation areas in a child care centre must comply with:</p> <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. <p>The premises is also required to register with the NSW Food Authority and Council.</p> <p>Relevant conditions of consent would be recommended reflecting the above if the application was recommended for approval.</p>	Yes. Able to comply.
Part C Section 1 - Parking		
2.1 General parking requirements	<p>The objective of this control is:</p> <p><i>i. To provide sufficient parking that is convenient for the use of residents, employees and visitors of the development.</i></p> <p>THDCP 2012 requires that any part spaces must be rounded up to the nearest whole number; all car parking spaces must be provided onsite; car parking for child care centres must be situated in a convenient location, allowing for safe movement of children to and from the centre; where justified, a proportion of car parking may be subject to time restrictions upon application, consideration and approval by Council; and all employees parking are to be provided on-site.</p> <p>Parking Requirements <i>Child Care Centre (including Kindergartens, Crèches)</i> <i>1 space per employee plus 1 space per 6 children enrolled for visitors and/or parent parking.</i></p>	NO.

Required Spaces

1 space x 17 staff members = 17 spaces

1 space per 6 children = 17 spaces

Total = 34 spaces

Proposed Spaces

Total spaces = 25 spaces

Discussion:

The proposal does not meet the DCP parking requirements for child care centres and presents a shortfall of nine (9) parking spaces. The applicant has provided the following justification for the departure:

- *The site is within walking distance of an R4 high density residential precinct where residents are likely to walk to the centre;*
- *The site is within proximity to commercial and non-residential land uses which generate a demand for childcare places and parents can park at these places of employment and then drop off children at the centre;*
- *There is on-street parking available in front of the site along North Rocks Road that can be utilised;*
- *The submitted traffic report states that a maximum of 10 spaces are required for parents, leaving 14 spaces for 17 staff members;*
- *The site is within close proximity to public transport and a proportion of child care workers are typically younger workers who will not own a car and could walk from bus stops;*
- *Many families are likely to have multiple children attending the facility which would reduce car trips;*
- *Locals would walk their children to the centre given the location of the site in a residential area;*
- *There is a staggered drop off and pick up time; and*
- *The site is located in proximity to land where the Parramatta Development Control Plan 2011 is applicable and the parking requirements under this DCP require a lower number of spaces.*

While the applicant has provided detailed justification for the parking shortfall, it is noted that much of the justification relies on assumed behaviours of visitors and staff.

There is no mechanism to ensure that that visitors to the centre will live in the nearby high density residential area as the operational plan does not and cannot specify that only local children will be offered places. The operator cannot ensure that those living in this area would walk to the centre. There is no guarantee that those working in nearby employment areas would use the centre and if they did, would park first at their place of employment and then walk their child to the centre.

The justification provided also makes the assumption that staff will either live locally and will walk to work or will be of a younger demographic, not own a vehicle and will utilise public transport. The submitted operation plan does not indicate that staff members will be employed from the local

area and further cannot ensure that staff members who would live in the area would walk or use public transport.

The justification provided that families are likely to have multiple children attending the facility which would reduce car trips again makes the assumption of the demographic of centre visitors. The likelihood of a number of local families having multiple children under the age of 5 years is relatively low and no evidence has been provided by the applicant demonstrating otherwise.

While drop off and pick up times would be somewhat staggered, they would still generally be within peak morning and afternoon periods (as per the submitted traffic report). Given that the centre proposes 99 child places, even with staggered drop off and pick up times, there would still be a number of vehicles entering and exiting at the same time.

While the submitted traffic report states that a maximum of 10 spaces are required for parents, leaving 15 spaces for 17 staff, this is still a shortfall in the number staff spaces provided which is inconsistent with THDCP 2012 controls which state that all staff parking is to be accommodated on site.

Despite that there is potential for some on-street parking along North Rocks Road, the applicant proposes an upgrade to the intersection of Speers Road and North Rocks Road by the construction of a right turn lane and a waiting bay (unprotected) in the centre of North Rocks Road for right turning vehicles. This would remove between 130m and 140m of parking in front of residential properties on North Rocks Road. Reliance on on-street parking is contrary to the objectives of THDCP 2012 which is to accommodate all generated parking demand on site. It is also noted that Speers Road is too narrow to accommodate on street parking.

The site is located on land to which the development controls of THDCP 2012 are applicable and must be assessed in accordance with the relevant controls at the time of assessment. Even if the site is located near land which is governed by the Parramatta Development Control Plan 2011 which requires less parking, the application of these controls is irrelevant to the subject site. The parking rates for this area have been determined using traffic and parking studies undertaken by the Hills Shire Council and are still applicable until such time as new planning controls are in effect for the site.

There is no assurance or way by which to ensure that visitors and staff will be from the locality and will walk or use public transport. Provision of on street parking is contrary to the objectives and controls of THDCP 2012. The shortfall in required parking spaces demonstrates that the proposed development is of a scale that cannot be accommodated on the site and is inappropriate. The excessive parking demand generated by the nature and

	intensity of the proposed use cannot be readily absorbed by the surrounding local street network.	
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OTHER MATTERS

Parramatta Design Excellence Advisory Panel (DEAP)

The development application was considered by the DEAP on 15 June 2017, who provided the following advice:

- *“The applicant presented slides and model of the proposed development highlighting the context, site constraints and design principals. The panel commends the architect and his team for a clear and detailed presentation.*
- *The presentation included precedents showing similar schemes by the architect and preliminary concepts demonstrating options as part of the design of the development.*
- *The panel considers the adopted Hill Top Village concept an appropriate and potentially exciting response to the client brief, the site and surrounding context.*
- *Notwithstanding the above, the panel identified the following issues;*
 - *The car parking and associated excavation is considered excessive given the nature of the development, its location in a relatively quiet area and potential for street parking.*
 - *In addition to the above the Panel notes the site is located on a bus route and is within close proximity to new high density development suggesting there may be a number of patrons within walking distance of the proposed child care centre in future.*
 - *Other issues noted by the panel related to the topography of the site, existing trees to be removed and the height of the development along the southern boundary, in particular at the south west corner.*
- *The Panel supports the materials selected showing a simple palette using natural materials, mainly timber and brick with lightweight screens and light colours.*
- *The grouping of small buildings on the site and variety of open spaces allows plenty of natural light and vistas from within the buildings, and placement to address context issues with surrounding properties.*
- *With regard to the car parking and excavation, the applicant presented two options. Option One complies with the relevant DCP providing 45 car spaces. The Panel is concerned that this would result in excessive excavation as mentioned above with a number of environmental impacts including more truck movements, dust and noise, potentially greater geological and hydrological impacts due to the depth of the excavation.*
- *Option Two, to provide 24 car spaces on one level would result in substantially less excavation and hence less environmental impacts. A smaller footprint would also allow for more deep soil and more soft landscaping.*
- *Furthermore, parking for short-term drop-off and pick-up could be provided within the relatively wide verge on Speers Road, adjacent to the north and west boundaries of the site. These could be in the form of inserts of say three car spaces separated by a landscaped area as part of the original verge and containing suitable street trees for*

shading. The northern verge could contain two modules of three car spaces whilst the western verge would contain one module of three car spaces, a total of nine spaces. These should satisfy the short-term drop-off and pick-up requirements with say a 10-minute parking limit to ensure adequate turnover of each space, given that there is no fixed drop off or pick up time. These spaces could be used for visitor parking by nearby residents outside of “child care “times.

- *For the reasons mentioned above, the Panel’s preferred option is the smaller basement with 24 car spaces noting;
 - *There is sufficient parking available in Speers Road for short stay parking.*
 - *The site is on a bus route.*
 - *The local area and new high density development should ensure a fair number of patrons within walking distance of the centre.**
- *The applicant is advised to submit a traffic/transport report to address any proposed shortfalls in car parking, and how traffic management can assist in minimising parking numbers.*
- *The Panel suggested savings made from the reduction in excavation could be used elsewhere such as the provision of solar panels, landscaping and/or public domain improvements such as street tree planting and paving.*
- *The applicant should consider a meeting with local residents to discuss their concerns and where deemed appropriate provide further improvements to the design.*
- *With regard to the height of the development on the southern boundary the applicant should make adjustments to the relevant floor, wall and roof elements and use landscaping to address streetscape issues and to minimise any overshadowing of No.4 Speers Road and 47 North Rocks Road whilst ensuring no loss of privacy to the adjacent sites. A series of cross sections may assist in this regard”.*

Comment: The original proposal and revised concept proposal (with 46 car parking spaces in a single basement level) was presented to the panel. Noting the panel’s preference for the original proposal with a shortfall in car parking spaces, Council’s Traffic Engineer has advised the applicant that onsite parking along Speers Road is not possible due to the narrow width of the road and inability for vehicles to legally park on the street without adverse safety impacts from people entering and exiting their vehicles.

The applicant has amended the plans to relocate the driveway entrance, submitted a traffic impact assessment and has proposed a “seagull” intersection arrangement to mitigate any traffic safety impacts entering and existing the basement however, has continued to use the availability of on-street parking as a justification for the current parking shortfall.

The applicant has also revised the design to reduce the building height to comply with the maximum height control. The applicant has not taken on board the panel’s suggestion to meet with local residents to discuss their concerns (this is discussed further within the public submissions section of this report below).

Parramatta Section 94A Contributions Plan 2017 (Former Hills LGA Land)

The proposal is subject to the application of Council’s Section 94A Contributions Plan 2017 (Former Hills LGA Land).

A monetary contribution is applicable, and it would be included as a condition of consent were the application recommended for approval. A condition requiring payment of 1% of the total

development cost of \$6,564,800 would be imposed if this application were recommended for approval.

Bonds

In accordance with Council's Schedule of Fees and Charges, the developer would be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site were the application recommended for approval.

Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (Section 4.15(1) (a)(iia))

The proposal does not include any Voluntary Planning Agreements (VPAs) and section 7.4 does not apply to the application.

Provisions of Regulations (Section 4.15(1) (a)(iv))

Clause 92 of the EPA Regulations 2000 requires the consent authority to consider *AS 2601-1991: The Demolition of Structures*. This matter would be addressed via a condition of consent were this application recommended for approval.

Clause 98 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. A condition of consent would be included in the consent that all works to be consistent with the provisions of the Building Code of Australia were the application recommended for approval.

Any Coastal Zone Management Plan (Section 4.15(1) (a)(v))

A Coastal Zone Management Plan is not applicable to the proposal.

Impacts of the Development (Section 4.15(1) (b))

The environmental impacts of the proposed development on the natural and built environment are addressed in this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.

The development will provide child care services to the community. The proposed development will therefore not have a detrimental social impact on the locality.

The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the surrounding land uses.

Suitability of the Site (Section 4.15(1) (c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the in this report. Whilst a child care centre is a permissible form of development on the subject site, the scale of the centre proposed cannot be accommodated on the site as evidenced by the inconsistency with the planning controls and objectives for child care centres and development on medium density residential zoned land. The constraints of the site together with the design issues have been assessed and it is considered that the subject site is unsuitable for the proposed development.

Public submissions (Section 4.15(1) (d))

The application was notified in accordance with Council's notification procedures contained within Part A, Section 3 of THDCP 2012 between 15 March and 29 March 2017. In response 13 unique submissions were received including 1 petition with 68 signatures from 50 households and 12 individual submissions. The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition.

Table 5: Summary of issues raised within submissions received during advertising period between 15 March and 29 March 2017

Issue	Response
Increased traffic congestion.	The use is not considered to be a traffic generating development. The result traffic impacts from the development could potentially be mitigated through the proposed "seagull" intersection however insufficient details have been provided demonstrating a satisfactory arrangement.
Traffic safety impacts.	Amended plans have been submitted proposing a "seagull" intersection in order to mitigate potential traffic safety impacts. Council's traffic engineer has advised that vehicles travelling south on North Rocks Road (downhill) travel at or over the speed limit and any seagull arrangement would need to be designed strictly within the guidelines to maintain the safety in this location.
Already enough childcare centres in the area.	There is no requirement within the applicable planning controls limiting the number of child care centres within an area.
Inconsistent with character, density, access and design.	While the built form is contemporary which contrasts existing dwellings in the area, the built form is consistent with a contemporary built form envisioned for future medium density development in the area.
Non-compliant building height.	The proposal has been amended to comply with the maximum permissible building height.
Inconsistent with prevailing height in streetscape.	The proposed development has been amended to comply with the maximum building height permissible on the site. The building height is consistent with the envisioned height for medium density development which is the anticipated future built form for the locality.
Removal of significant trees.	Council's Landscape Officer has reviewed the proposal and advised that the proposed tree removal is satisfactory.
Extensive earthworks.	Excavation is proposed to create a basement level across approximately half the site as a result of the site topography. Were this application recommended for approval, relevant conditions of consent would be recommended to manage the excavation and erosion and sediment control.
Non-compliant secondary setback.	The proposed setbacks are non-compliant (and remain non-compliant in the amended plans). This forms a reason for refusal of this application.
Site coverage non-compliance.	The proposed site coverage is non-compliant (and remains non-compliant in the amended plans) with the

	DCP control and is excessive for the site. This forms a reason for refusal of this application.
Asbestos removal.	Were this application recommended for approval, appropriate conditions relating to asbestos removal would be recommended.
Play areas close to neighbours – noise and privacy.	Certain play areas towards the south of the site are located in close proximity to private open space areas of adjoining properties. This forms a reason for refusal of this application.
Traffic pollution unsuitable for a child care centre.	The use is not considered to be a traffic generating development that would result in unacceptable pollution levels. The site does not adjoin a classified road and therefore is not located near a source of traffic pollution.
Parking non-compliance.	The proposal is deficient in the number of car parking spaces required for 124 proposed children. The application has since been amended to 99 children however the proposal is still non-compliant with the DCP parking rates.

Amended Plans Yes

Summary of amendments

- Reduction of the number of child places from 124 to 99 and staff numbers from 20 to 17 staff;
- Submission of amended architectural, landscape and stormwater plans showing:
 - Relocation of the proposed driveway entrance on Speers Road closer to the intersection of Speers Road and North Rocks Road;
 - Provision of a “Seagull” intersection treatment to the intersection of North Rocks Road and Speers Road;
 - Reduction in building height to under 9m;
 - Reduction of the site coverage to 80% to 74% of the site;
 - Increased basement setbacks to 1.5m; and
 - Increased secondary frontage setback to 4m;
- Submission of an amended traffic impact assessment report; and
- Submission of an amended operation plan of management.

The amended proposal was re-notified in accordance with Council’s notification procedures contained within Part A, Section 3 of THDCP 2012 between 28 February 2018 and 14 March 2018. In response 19 unique submissions were received. The issues raised within those submissions are addressed below. Issues have been grouped to avoid repetition.

Table 6: Summary of issues raised within submissions received during advertising period between 28 February and 14 March 2018

Issue	Response
Traffic Congestion.	The use is not considered to be a traffic generating development. Notwithstanding, the lack of parking provided on site will have adverse implications on the surrounding street network.
Insufficient parking.	The proposal is deficient in car parking. This forms a reason for refusal.
Traffic safety impacts on Speers Road and turning in and out of Speers Road.	Amended plans have been submitted proposing a “seagull” intersection in order to mitigate potential traffic safety impacts. Council’s Traffic Engineer has advised that vehicles travelling south on North Rocks Road

	(downhill) travel at or over the speed limit and any seagull arrangement would need to be designed strictly within the guidelines to maintain the safety in this location.
Proposed seagull intersection will increase safety impacts.	Council's traffic engineer provided comments on the proposed seagull intersection and advised that previous traffic safety concerns would be mitigated by a seagull intersection however the applicant has not submitted sufficient details demonstrating a satisfactory arrangement.
Traffic lights or a roundabout should be considered at the junction of Speers Road and North Rocks Road.	The proposal does not propose inclusion of traffic lights or a roundabout at the intersection of Speers Road and North Rocks Road.
Entrance to child care centre should be from North Rocks Road.	The proposal seeks entrance to the child care centre from Speers Road.
No stopping signs should be placed along Speers road.	The proposal does not propose 'No Stopping' signs along Speers Road.
Number of child places should be reduced.	The proposed number of children cannot be accommodated on the site within the proposed development as evidenced by non-compliance with site coverage, setback and parking controls.
Building height non-compliance.	Amended plans were submitted (subject of this re-notification package) reducing the building height to comply with the maximum permissible building height.
Solar access impacts.	The submitted shadow diagrams indicate that the overshadowing impact is limited to between 9am and 12pm on 21 June where the majority of the rear private open space area of the adjoining property at No. 4 Speers Road will be impacted at 9am and will be partly impacted at 12pm. The adjoining property is still able to achieve the minimum solar access requirements outlined in the DCP.
Tree removal.	Tree removal is proposed to facilitate the development. Council's Landscape Officer has reviewed the proposal and advised that the tree removal is satisfactory.
Dust, noise and parking impacts from construction vehicles.	Were this application recommended for approval, relevant conditions of consent relating to construction management would be recommended.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

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

Conciliation Conference – Required and Not Held

The application received 13 unique submissions during the first formal notification period and 19 unique submissions during the second formal notification period and as a result a Conciliation Conference was required to be held.

In this instance, the applicant elected not to attend a Conciliation Conference and therefore one was not held (as per email correspondence from applicant outlined in TRIM document no. D05817421).

Public Interest (Section 4.15(1) (e))

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. The proposed development is for a child care centre which will assist in meeting the demands of Sydney's growing population however, as discussed in this report, the overall impact of the proposal is inconsistent with the relevant planning controls for this site. Consequently, a development of this scale does not serve the broader public interest as the development is fundamentally not suited to the site in terms of the scale of development.

The public benefit of providing a child care centre on this site does not outweigh the concerns in relation to the scale of the proposal and the impacts that the proposal would have on the locality. Accordingly, the proposed development is not in the overall public interest as the development results in adverse impacts on the built environment that the community can reasonably expect to be provided on this site.

CONCLUSION

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979. This assessment has taken into consideration the submitted plans, the Statement of Environmental Effects and all other documentation supporting the application, internal and external referral responses.

The proposal is inconsistent with the aims and relevant clauses and controls of The Hills Local Environmental Plan 2012 and The Hills Development Control Plan 2012.

The DA was publicly exhibited in accordance with The Hills Development Control Plan 2012 (THDCP 2012), during which time 13 unique submissions objecting to the proposal were received. The DA was re-notified following the submission of amended plans in accordance with The Hills Development Control Plan 2012 (THDCP 2012), during which time 19 unique submissions objecting to the proposal were received. A merit assessment of the application has determined that the proposed child care centre of this scale is unsatisfactory and unsuitable for site and not in the public interest.

Based on a detailed assessment of the proposal against the applicable planning controls, the proposed child care centre does not satisfy the appropriate controls and legislative requirements and is not deemed to be in the public interest. As such, it is recommended that the Sydney Central City Planning Panel (SCCPP) refuse the application for the reasons stated in the 'Officer Recommendation' section of the report.

OFFICER RECOMMENDATION

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

- i. That SWCPP as the consent authority refuse development consent to DA/158/2017 for amalgamation of three (3) allotments, demolition of existing structures and construction of a child care centre with associated car parking on land at 49 North Rocks Road (Lot 12 DP 22931); 51 North Rocks Road (Lot 13 DP 22931); and 2 Speers Road (Lot 118 DP 23173), North Rocks, NSW 2151 for the following reasons:

Overdevelopment of the site

1. The proposal fails to satisfy the medium density residential zone objectives bullet point one of Clause 2.3 of The Hills Local Environmental Plan 2012 in the R3 Medium Density Residential zone in that the proposed development not satisfactorily provide an appropriate built form scale for a medium density environment.
2. The proposal fails to meet the objectives and controls of *The Hills Development Control Plan 2012, Part B2, Section 2.14.2 Site Coverage* as the proposed site coverage of 74% exceeds the maximum 60% site coverage control and proposed building footprint of 51.9% exceeds the maximum 45% building footprint control.
3. The proposal fails to meet the objectives and controls of *The Hills Development Control Plan 2012, Part B4, Section 3.3 Setbacks* as follows:
 - a) The proposed front setback of 6 metres does not comply with the minimum 10 metre front setback control;
 - b) The proposed secondary setback of 4-6 metres does not comply with the minimum 6 metre secondary setback control;
 - c) The proposed side setback (single storey element) is 1.3-4.4 metres which does not comply with the minimum side setback (single storey element) control of 1.5-4.5 metres;
 - d) The proposed side setback (two storey element) is 1.2-2.7 metres which does not comply with the minimum side setback (two storey element) control of 6 metres; and
 - e) The proposed basement setback is 0.7 metres which does not comply with the minimum basement setback control of 2.5m.
4. The proposal fails to meet the objectives and controls of *The Hills Development Control Plan 2012, Part B4, Section 3.7 Landscaped Area* as the proposed development insufficient landscaped area capable of deep soil planting as it provides 21.3% landscaped area which does not comply with the minimum landscaped area of 30%.
5. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E1.2 Aims and Objectives* as the proposed development is too large in scale to meet the minimum requirements for car parking, allow for adequate setbacks and landscaped areas, and minimise amenity impacts to adjoining residential development.

Parking

6. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E2.1 Site Requirements* as the proposed development does not provide adequate car parking for staff and visitors.
7. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E2.12 Vehicular Access and Parking* as the proposed development does not accommodate the parking demand generated by the development on site.
8. The proposal fails to meet the objectives and controls of *The Hills Development Control Plan 2012, Part C1, Section 2.1 General Parking Requirements* as the proposed development is deficient in parking and provides 25 car parking spaces for staff and visitors which does not comply with the minimum 34 car parking spaces required for the development.

Amenity

9. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B4, Section 3.21 Visual and Acoustic Privacy* as the proposed development results in overlooking to adjoining private open spaces of dwellings to the south of the site.
10. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E2.6 External Play Areas* as the proposed external play areas to the south of the site have not been located to minimise potential noise and privacy impacts to the dwellings to the south of the site as these areas are located 3 metres from the site boundary.
11. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E2.10 Visual and Acoustic Privacy* as the proposed external play areas to the south of the site result in overlooking to the private open spaces of the adjoining dwellings to the south of the site.
12. The proposal fails to meet the objectives of *The Hills Development Control Plan 2012, Part B6, Appendix E, Section E2.12 Landscaping* as the proposed external play areas to the south of the site are located 3 metres from the southern site boundary and insufficient landscape buffers are provided as vegetation with a mature height of 1 metre is proposed.

Insufficient Information

Stormwater

13. Insufficient information is submitted demonstrating that the outflow from the proposed OSD system is able to manage stormwater runoff as the levels on the submitted stormwater plans are inconsistent with the levels on the corresponding architectural and landscape plans, and as cross-sectional details and OSD system details are insufficient.
14. Insufficient information is submitted demonstrating how the proposed rainwater tank volume will manage subsequent storm events once the tank has been filled by a preceding storm.
15. Insufficient information is submitted demonstrating that the pollutant removal efficiency adopted in the Model for Urban Stormwater Improvement Conceptualisation (MUSIC) is adequate.
16. Insufficient information is submitted demonstrating that the proposed "Stormstack" is an efficient water quality treatment device as indicated in the Model for Urban Stormwater Improvement Conceptualisation (MUSIC).

Public Interest

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

