

1 May 2018

Mr Paul Mitchell  
Chair  
Sydney West Central Planning Panel

Dear Mr Mitchell

## 2017SWC041 DA-CONSTRUCTION OF A 99 PLACE CHILDCARE CENTRE AT 49 -51 NORTH ROCKS AND 2 SPEERS ROAD, NORTH ROCKS

I refer to the above development that is being considered at a public meeting on 2 May 2018. Council's assessment report recommends refusal of the application on 18 grounds.

For the reasons outlined in the following table we would request that the panel consider either approving the development or resolving to defer the matter until its scheduled meeting on 4 July 2018 to allow further clarification to be provided on the proposed grounds of refusal.

As part of any deferral we would also request that the panel provide some guidance on what the applicant considers to be the primary ground of refusal, being the appropriate rate for the provision of on-site parking.

Proposed Refusal Condition Response Table	
Issue	Applicants Comments
<b>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.</b>	<p>Bullet point of the R3 zoning table states:</p> <p><i>To provide for the housing needs of the community within a medium density residential environment</i></p> <p>Given that this proposal is for a childcare centre, it is acknowledged that the development is not capable of meeting this objective.</p> <p>However, the proposal meets the third bullet point objective that states:</p>

*To enable other land uses that provide facilities or services to meet the day to day needs of residents*

In respect of the built form scale of the proposal the FSR of the buildings on the site has been calculated as being 0.42:1.

A typical floorspace ratio for a R3 zone in a suburban area such as this would typically be around 0.6:1. Given this, it is considered that an FSR of 0.42:1 for a development on this site demonstrates that the scale and intensity of the development is appropriate for the site and compatible with both the existing and likely future built form in the area.

Finally, it is noted that the proposal was considered by Council's Design Excellence Advisory Panel that comprised Urban Design and landscaping experts. This panel considered the previous larger footprint and advised:

*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.*

Given the above, the scale of the revised development is considered to be consistent with the planning controls and consistent with the current and likely future built form in the immediate precinct.

Given the above comments, it is not considered that this concern warrants refusal of the application.

**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.**

Our calculations of a site coverage in accordance with the definition contained within the DCP is that the development has a site coverage of 61%. If the basement carpark is excluded from this calculation, the development would have a compliant site coverage of 41%.

Although the building footprint exceeds 45% it is noted that the centre has been broken up into a series of well modulated buildings to

	<p>appropriately modulate the bulk and scale of the proposal.</p> <p>Given the above comments, it is not considered that this concern warrants refusal of the application.</p>
<p><b>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:</b></p> <p><b>a) The proposed front setback of 6 metres does not comply with the minimum 10 metre front setback control;</b></p> <p><b>b) The proposed secondary setback of 4-6 metres does not comply with the minimum 6 metre secondary setback control;</b></p>	<p>It is considered that the applicable section of the DCP requires a street setback of either 4m or 6m to be provided.</p> <p>Appendix E of the Hills DCP contains controls for Childcare centres and in respect of setbacks states: <i>Other relevant Sections of the DCP (i.e. Part B Section 2 – Residential) should be consulted with regards to setbacks, depending on the nature and location of the development.</i></p> <p>Part B, Section 2 contains the following controls for street setbacks:</p> <p><i>Development on corner allotments, with no frontages to classified roads shall have regard to the streetscape of both street frontages and may provide a setback of not less than 6 metres for the primary frontage and 4 metres to a secondary road frontage.</i></p> <p>In accordance with this control and noting that North Rocks Road is not a classified road, the buildings are setback 6m from North Rocks, 6m from the western boundary with Speer Road s and 4m from the northern boundary to Speers Road.</p> <p>Given this the proposed street setbacks are consistent with that suggested by the Hills DCP and proposed refusal grounds 3a and 3b are factuality incorrect.</p>
<p><b>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;</b></p> <p><b>d) The proposed side setback (two storey element) is 1.2-2.7 metres which does not</b></p>	<p>The required side setback contained in the Part B Section 2- Residential of the DCP is 900mm for 1 and two storey buildings.</p> <p>The development provides a minimum side setback of 1.2m</p>

<p><b>comply with the minimum side setback (two storey element) control of 6 metres; and</b></p> <p><b>e) The proposed basement setback is 0.7 metres which does not comply with the minimum basement setback control of 2.5m.</b></p>	<p>Given this the proposed side setback is consistent with that suggested by the Hills DCP and proposed refusal grounds 3c and 3d are factually incorrect.</p> <p>The 2.5m setback is a requirement for townhouse developments and is not referred to in the Childcare Centre DCP.</p> <p>It is noted that the basement carpark occupies approximately 30% of the site and that sufficient landscaping is provided to the basements perimeter to soften the impact of the built form.</p> <p>Given the above comments, it is not considered that these concerns warrant refusal of the application.</p>
<p><b>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%.</b></p>	<p>The development provides 45% of the site as deep soil.</p> <p>It is also noted that the development proposes the planting of 21 trees capable of growing to between 5m and 15m in height that will ensure that the landscaped setting of the area is enhanced as a result of the development.</p> <p>Given the above comments, it is not considered that these concerns warrant refusal of the application.</p>
<p><b>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.</b></p>	<p>As outlined above the development has a FSR of 0.42:1 that is considered to be a modest FSR in an area zoned for townhouses.</p> <p>The provided setbacks are compliant with the DCP controls.</p> <p>The building has been primarily designed to address its three street frontages and appropriately mitigates impacts to its southern boundary.</p> <p>Carparking is discussed in the table below, however is considered sufficient to cater for the demand generated by the centre.</p> <p>Given the above comments, it is not considered that these concerns warrant refusal of the application.</p>

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.

The Hills DCP suggests that parking should be provided at the rate of:

*1 space per 6 children in attendance  
and 1 space per staff members.*

The proposed centre has 99 children and 17 staff this leads to a requirement for 34 spaces.

The development contains 25 spaces which results in a 9 space departure to the applicable DCP.

The objective for parking provision is stated by the DCP to be:

*To provide sufficient parking that is convenient for the use of residents, employees and visitor of the development.*

Despite the numerical shortfall in parking, the provision of 25 spaces for a 99 place childcare centre is considered to meet the objective of the control as:

- The site is within 185m walking distance of a rapidly development R4 High Density precinct that will shortly accommodate 400 plus residential apartments. This precinct will likely contain residents that will desire access to a childcare centre in close proximity to their residence and are likely to walk to the centre and then utilise public transport to either access places of employment in the Parramatta CBD or access Parramatta Station;
- The site is located within close proximity to an area that contains many commercial and non-residential land uses. These land uses generate a demand for childcare places and typically some parents make their way to their place of employment by public transport or park their car at work and then drop off at the centre;

- There is on-street parking available in front of the site along North Rocks Road that can cater for any additional demand for parking generated by the development. It is noted that the development will increase on-street parking in front of the site along North Rocks Road, through the removal of a cross over to 49 North Rocks Road;
- The traffic and parking report prepared by McLaren traffic calculates that based on, the size of the centre that a maximum of 10 spaces will be required for parents dropping off and collecting children. This calculation is based on an average stay of 10 minutes for a parent dropping off or collecting a child which is generous and greater than the 6.8 minutes suggests by the NSW RMS. This will leave 15 spaces available for the 17 staff;
- The site is within 800m of a high frequency bus corridor along Windsor Road that has over 20 services in the am and pm peak. Given the characteristics of child care centre workers, a high proportion of whom are typically younger worker, it is likely that some staff will not own a car and will not be daunted by the 800m walk to the centre. There is also a high likelihood that some employee will reside in the immediate locality including the rapidly developing R4 precinct to the west of the site that is within 200m walking distance.
- Many families that will attend the centre are likely to have multiple children attending the site which will reduce car visits;
- The site is located in the middle of an existing residential area where the trend is more and more for locals to
- The site is located within 100m of land covered by Parramatta DCP 2011. If

the site was located on this site, Council have indicated that they would be accepting that the rate of 1 space per 4 children in attendance would be the appropriate car parking rate for the development. Given the proximity of the site to land covered by the Parramatta CBD and noting that this rate is consistent with the rate suggested by Childcare and Education SEPP 2017 for parking in suburban areas, it is considered appropriate to adopt this rate for the site;

Given the above and the discussion in the McLaren traffic report that accompanies this application it is considered that it has been appropriately demonstrated that the rate of 1 space per 4 children in attendance is an appropriate rate for this development and will ensure that the development will not lead to an unacceptable increase in on -street parking in the vicinity of the site.

Accordingly, despite the numerical departure, it is considered that the provision of 25 spaces for a 99 place child care centre satisfies the objective of the DCP.

Given the above comments, it is not considered that these concerns warrant refusal of the application.

**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.**

The childcare centre primarily orientates its focus towards its internal courtyards. There are 14 windows that face the two southern properties. These windows are not primary windows, with some of these windows being frosted bathroom windows.

Other windows are at ground level and will be screened by the ground level fence and landscaping.

Privacy screens could be added to remaining windows if considered warranted to prevent overlooking towards these two properties.

	Given the above comments, it is not considered that these concerns warrant refusal of the application.
<p><b>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.</b></p>	<p>The landscaped plan indicates that the majority of play areas are either internal or adjacent to the street frontages of the site.</p> <p>Two modest play areas are located in the vicinity of the southern boundary.</p> <p>The acoustic report and operational management plan submitted with the application outlines that the impacts from these play areas is considered acceptable and will not unduly disturb the amenity of adjoining properties.</p> <p>The submitted acoustic report was reviewed by Council's Environmental Officer who states in part that:</p> <p><i>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.</i></p> <p>Given that Council's expert accepts the recommendations of the acoustic report, it is considered that the development will not have an unacceptable acoustic impact on the two adjoining properties.</p> <p>The proposed fence and landscaping will appropriately mitigate overlooking impacts.</p> <p>Given the above comments, it is not considered that these concerns warrant refusal of the application.</p>
<p><b>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.</b></p>	
<p><b>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</b></p>	<p>As outlined above there are two play areas within the vicinity of the southern boundary.</p>



<p>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.</p>	<p>The proposed fencing will mitigate the majority of overlooking opportunities.</p> <p>Given this and the setbacks it is not considered that additional landscaping is warranted.</p>
<p>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.</p> <p>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.</p> <p>15. Insufficient information is submitted demonstrating that the pollutant removal efficiency adopted in the Model for Urban Stormwater Improvement Conceptualisation (MUSIC) is adequate.</p> <p>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).</p>	<p>Revised plans were submitted to Council on 9 April that provided additional clarification.</p> <p>It is anticipated that this additional information has satisfied Council's concerns and if not that a condition could be imposed requiring the approval of the concept OSD plan by Council prior to the issue of the construction certificate.</p>
<p>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.</p> <p>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.</p>	<p>The development is considered to be in the public interest as it will provide a valuable service to assist with the growing population of the precinct.</p> <p>Council's Social Outcomes Team notes this and indicates that <i>Current research identifies the significant need for long day care children's services in the LGA.</i></p> <p>Many of the public submissions raise concerns about traffic and the difficult of tuning into Speers Road when travelling south along North Rocks Road and the difficulty of turn right from Speers Road into North Rocks Road. This application acknowledges that this is an issue now and proposes intersection</p>

treatments that improve traffic movements at the intersection and assist in resolving an existing issue.

Given the above, the development is considered to be in the public interest.

## Conclusion

I trust the above outlines why serious consideration should be given to recommending approval or alternatively deferral of the application.

Should you require any further information, I can be contacted on 9687 8899 or 0405 530 095.

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