

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 02 March 2023
<b>Time:</b>	4.00pm
<b>Venue:</b>	Blended Meeting Online and Georges River Civic Centre Corner Dora and MacMahon Streets, Hurstville
<b>Participants:</b>	Stephen Davies (Chairperson) Juliet Grant (Expert Panel Member) Judy Clark (Expert Panel Member) George Vardas (Community Representative)

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<b>1.</b>	<b>On Site Inspections – Carried out by Panel Members prior to meeting</b>
<b>2.</b>	<b>Opening</b>
<b>3.</b>	<b>Consideration of Items and Verbal Submissions</b>
<b>LPP003-23</b>	<b>31-33 Bailey Parade Peakhurst – DA2021/0192</b> (Report by Principal Planner)
<b>4.</b>	<b>Local Planning Panel Deliberations in Closed Session</b>
<b>5.</b>	<b>Confirmation of Minutes</b>

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 02 MARCH 2023**

LPP003-23

<b>LPP Report No</b>	<b>LPP003-23</b>	<b>Development Application No</b>	<b>DA2021/0192</b>
<b>Site Address &amp; Ward Locality</b>	31-33 Bailey Parade Peakhurst Mortdale Ward		
<b>Proposed Development</b>	Demolition and construction of a two storey 56 place childcare centre with basement parking, landscaping and site works.		
<b>Owners</b>	Hassan Kabalan and Sandra Daniela Da Cruz Monteiro		
<b>Applicant</b>	Mark Makhoul		
<b>Planner/Architect</b>	Planner:Think Planners Architect: Building Design & Technology Pty Ltd		
<b>Date Of Lodgement</b>	13/05/2021		
<b>Submissions</b>	87 submissions		
<b>Cost of Works</b>	\$1,275,000.00		
<b>Local Planning Panel Criteria</b>	This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the sub delegations of functions under Georges River Council. Subject to these delegations, the application being for a child care centre is required to be considered and determined by the Local Planning Panel.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Educational and Child Care Facilities) 2017, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021, Greater Metropolitan Regional Environmental Plan No.2 - Georges River Catchment, State Environmental Planning Policy No.55 - Remediation of Land, State Environmental Planning Policy Infrastructure 2007 and State Environmental Planning Policy Vegetation in Non - Rural Areas 2017.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects Architectural Plans Traffic Report Acoustic Report and Arborist Report		
<b>Report prepared by</b>	Principal Planner		

<b>Recommendation</b>	That the application be refused in accordance with the reasons referenced at the end of this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<p><b>Legislative clauses requiring consent authority satisfaction</b></p> <p>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 summarised, in the Executive Summary of the assessment report?</p>	<p><b>Yes</b></p>
<p><b>Clause 4.6 Exceptions to development standards</b></p> <p>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?</p>	<p><b>Not Applicable</b></p>
<p><b>Special Infrastructure Contributions</b></p> <p>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p><b>Not Applicable</b></p>
<p><b>Conditions</b></p> <p>Have draft conditions been provided to the applicant for comment?</p>	<p><b>No, as the application is recommended for refusal. The refusal reasons will be available to review when the report is published.</b></p>

### Site Plan



Aerial view of the site outlined in blue.

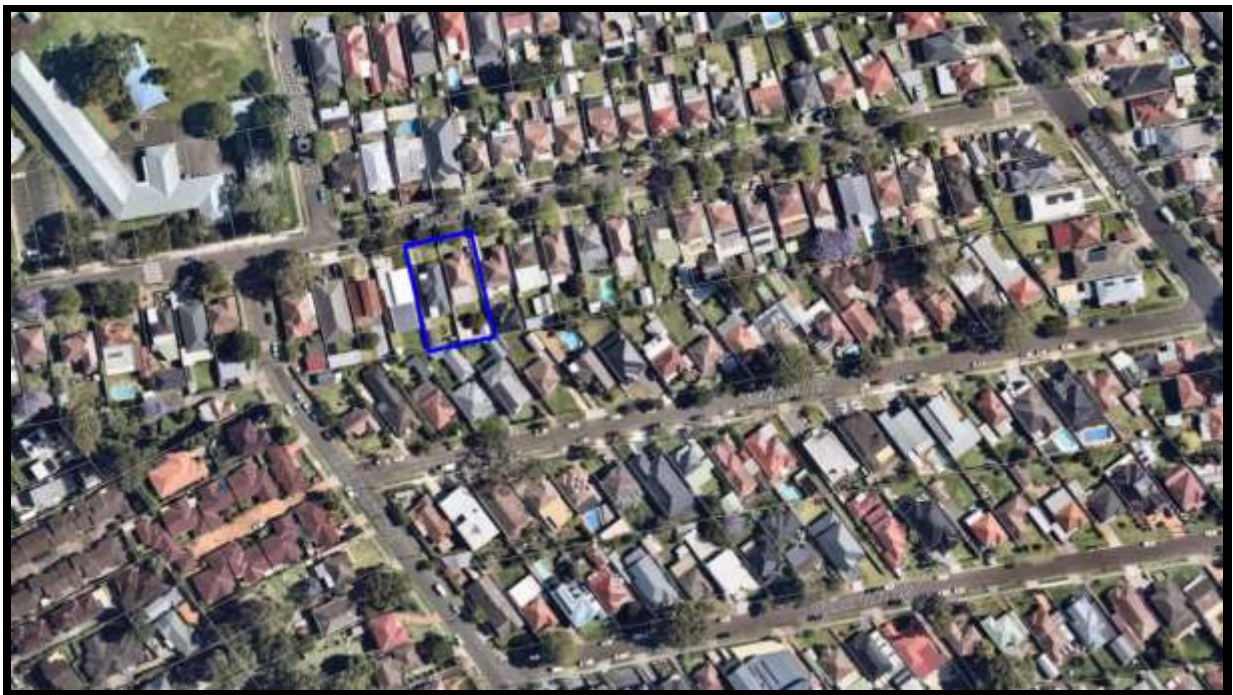
## Executive Summary

### Proposal

1. Council received a development application seeking planning approval for demolition of existing structures and the construction of a two storey 56 place childcare centre with basement parking, landscaping and site works.
2. In response to the issues raised by Council and comments provided from internal specialists, the applicant has failed to provide sufficient and adequate information to satisfactorily address the concerns.

### Site and Locality

3. The subject development site is identified as Lot 97 in DP 16980 being 31 Bailey Parade, Peakhurst and Lot 96 DP 16980 known as 33 Bailey Parade, Peakhurst. The site is located between Collaroy Avenue to the west and Baumans Road to the east.



**Figure 1:** Aerial of the locality with the site outlined in blue

4. The combined lots form a regular shaped allotment with a 24.99m frontage to Bailey Parade, an eastern side boundary of 39.715m. western side boundary of 39.135m and with a rear boundary width of 24.99m. It is located on the southern side of Bailey Parade. The site has a total area of 980.1sqm by DP.

The allotments and their legal description are noted below:

- 31 Bailey Parade – Lot 97 DP 16980 – 493.2sqm
- 33 Bailey Parade – Lot 96 DP 16980 – 486.9sqm

5. A single storey clad cottages with tiled roof and detached outbuildings is currently located on 31 Bailey Parade, Peakhurst. A single storey rendered dwelling with tiled roof is located on 33 Bailey Parade, Peakhurst. The site observes a fall from the western to the eastern side of the allotment of 0.29m at the rear and 0.94m at the front of the allotment. The site also falls 1.74m from the rear south western corner to the front north eastern corner of the allotment



6. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing dwellings on properties with similar site characteristics and topography. It is acknowledged an educational establishment is located to the north-west of the site.

### **Zoning, Permissibility and Hurstville Local Environmental Plan (2012) Compliance - LEP**

7. The subject site is zoned R2 – Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). Centre Based Child Care Facilities are permitted with consent in the zone.
8. A detailed assessment of the proposal against these controls is provided later in this report.

### **Hurstville Development Control Plan No 1**

9. The provisions of Hurstville Development Control Plan No 1 are applicable to the proposed development. The proposed development has an adverse impact on the street tree within the frontage of 31 Bailey Parade, Peakhurst, the proposal fails to provide compliant drainage from the site, the grade of the exit driveway does not comply with the relevant standards and the development results in adverse impacts upon the street and surrounding locality.
10. A detailed assessment of the proposal against these controls is provided later in this report.

### **Submissions**

11. The application was notified for a period of fourteen (14) days in accordance with the Hurstville Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Eighty seven (87) submissions were received.

### **Reason for Referral to the Local Planning Panel**

12. The proposal has been referred to the Georges River Local Planning Panel (LPP) as the sub delegations of Council require a child care centre development to be determined by the Georges River Local Planning Panel.

### **Planning and Design Issues**

13. The application has failed to provide sufficient and adequate information to address the concerns relating to stormwater drainage, vehicular access and egress and the potential impacts upon street trees.

### **Conclusion**

14. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans and following a detailed assessment, the proposed Development Application (DA2021/0192) is recommended for refusal.

### **Report in Full**

#### **Description of the Proposal**

15. Development consent is sought for demolition of existing structures and the construction of a two storey 56 place childcare centre with basement parking for 12 vehicles, 6 bicycle spaces, landscaping and site works.



**Figure 2:** Northern (street) elevation of proposed child care centre

16. A detailed breakdown of the proposed works is provided below:

## Basement Plan

- Six (6) car parking spaces for 12 staff
- Six (6) car parking spaces for drop off and pick up including one (1) accessible car space.
- Designated pedestrian path separating the car spaces and accessing the lift and stairs.
- Fire Stairs and lift access.
- Six (6) bicycle spaces.
- Electricity room.
- Bin room.
- Loading bay (labelled as staff/loading bay – should approval be granted this space should be labelled as loading bay only)).

## Ground Floor Plan

- Accessible ramp to front entry.
- Entry porch.
- Reception.
- Admin office.
- Kitchen.
- Accessible toilet.
- Fire stairs and lift access.
- 0-2 age room for 16 children including bottle preparation area, lockers and storage.
- Cot room containing 8 cots.
- 2 x Toilet/nappy room.
- 2-3 age room for 20 children lockers and storage.
- 3-5 age room for 20 children and storage.
- 3 x Toilet/nappy room.
- Outdoor play area for 2-5 age group at rear of site.
- Outdoor play area for 0-2 age group along western side of site.
- Storage.
- Lockers.

### First floor Plan

- Kitchen and pantry.

- Accessible WC.
- Fire stairs and lift access.
- Sitting room.
- Office.
- Staff room.
- Laundry.
- Dumb waiter.

#### Use and Operational details

17. The operation of the proposed child care use will be as follows:
- **Operating hours:** The applicant is seeking hours of operation to be Monday to Friday inclusive from 6:30am until 6:30pm.
  - **Staff:** Twelve (12) staff members.
  - **Number of children:** Fifty six (56) children with the following age groups:
    - 0-2 years: 16 places;
    - 2-3 years: 20 places, and;
    - 3-4 years: 20 places.
  - **Parking:** Twelve (12) car parking spaces within the basement car park. Six (6) parent drop-off/pick up spaces and six (6) staff parking spaces. One (1) loading bay has also been provided.
  - **Acoustics:** The proposal is accompanied by an acoustic report. The acoustic report requires specific acoustic mitigation measures.
  - **Waste Management:** A waste management plan has accompanied the application and was assessed by Council's Waste Team.
  - **Signage:** No signage is proposed as part of this application. Any signage will require separate approval unless it is exempt development.

**Note:** The applicant has failed to provide a Plan of Management or an Emergency Evacuation Plan detailing the operation and functioning of the child care centre.

#### **Development Summary**

18. A numerical summary of the proposed development is provided as follows

Element	Proposal
Building Height	8.32m
Floor Space	409sqm (0.417:1)
Unencumbered indoor space	190sqm proposed Required 3.25sqm per child – equating to 182sqm being required Compliant
Unencumbered outdoor space	393sqm proposed Required 7sqm per child – equating to 392sqm being required Compliant
Car parking spaces	10 car parking spaces required under the amended scheme with the separate entry and exit one way drive through as the rate for calculation changes with this design change. 12 car parking spaces provided comprising the following: <ul style="list-style-type: none"> <li>• Six (6) car spaces for drop off and pick up (including one (1) accessible space). (Four (4) required)</li> <li>• Six (6) car parking spaces for staff. (Six (6) required) .</li> <li>• One Loading Bay</li> </ul>

Bicycle parking spaces	6 Bicycle spaces
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LPP003-23

**Background**

19. Development Application (DA2021/0192) was lodged on 13 May 2021 seeking consent for demolition of existing structures and the construction of a child care centre over basement car park. The proposed development consists of a two storey child care centre catering for 56 children, basement parking for 12 motor vehicles and 6 bicycles.
20. Email to the applicant on 29 June 2021, advising that a full assessment has not been completed however over 50 submissions had been received. In addition, concerns had been raised by Council's Consultant Arborist that there was potential the development could impact upon existing trees and an arborist report was required to be submitted addressing these impacts and Council's Drainage Engineer had advised that the drainage plan submitted was unsatisfactory.
21. Email sent to the applicant on 4 August 2021 advising the arborist report submitted to Council on 26 July 2021 had not satisfactorily addressed the concerns raised. Council's Traffic Engineer had also provided comments and sought additional information in relation to SIDRA modelling and non-compliances with the parking configuration, profiles and swept paths.
22. The Applicant submitted additional information on 30 August 2021 including an amended basement plan, arborist report and traffic response.
23. An email was sent to the applicant on 7 September 2021 advising the arborist report still has matters to address.
24. An email was sent to the applicant with an update on 28 September advising impacts on trees remain outstanding and a response from Council's Traffic Engineer has not been received to date. In addition, a Plan of Management is to be provided.
25. An amended arborist report was submitted on 26 October 2021. A response was received from Council's Consultant Arborist and the applicant was advised accordingly on 26 October 2021.
26. An amended Traffic Report was submitted on 10 January 2022.
27. A meeting was held on 22 February 2022 between Council's Coordinator Development Assessment, Principal Planner, Senior Drainage Engineer and Senior Landscape & Arboriculture Assessment Officer, the applicant and the applicant's Drainage Engineer and Arborist. Council's Senior Drainage Engineer and Arborist clarified and further explained in the meeting what is specifically required to be addressed and the information needed, a holistic approach needs be taken and all information, amended plans and details be submitted as one package with all calculations provided.
28. Amended traffic report, access report and arborist report submitted. In addition, amended landscape plan, stormwater plan, basement, ground floor and elevations plan submitted to Council on 27 July 2022.



29. Upon review of the amended information and comments by internal specialists, the applicant was advised on 19 October 2022, that the proposed development in its current form would not be supported by Council, the applicant was given an opportunity to withdraw the application.
30. An email was sent to the applicant on 29 November 2022 advising that the application will be referred to the LPP in 2023 for determination. The Applicant was also advised that a full set of amended plans were not provided and that any deficiencies within the plans will form part of the assessment. The applicant was provided with another opportunity to withdraw the application.

### The Site and Locality

31. The subject development site is identified as Lot 97 in DP 16980 being 31 Bailey Parade, Peakhurst and Lot 96 DP 16980 known as 33 Bailey Parade, Peakhurst. The site is located between Collaroy Avenue to the west and Baumans Road to the east.



**Figure 3:** Aerial view of subject site outlined in blue.

32. The combined lots form a regular shaped allotment with a 24.99m frontage to Bailey Parade, an eastern side boundary of 39.715m. western side boundary of 39.135m and with a rear boundary width of 24.99m. It is located on the southern side of Bailey Parade. The site has a total area of 980.1sqm by DP.

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33. A single storey clad cottages with tiled roof and detached outbuildings is currently located on 31 Bailey Parade, Peakhurst. A single storey rendered dwelling with tiled roof is located on 33 Bailey Parade, Peakhurst. The site observes a fall from the western to the eastern side of the allotment of 0.29m at the rear and 0.94m at the front of the allotment. The site also falls 1.74m from the rear south western corner to the front north eastern corner of the allotment





**Figure 4:** Existing dwelling at 31 Bailey Parade, Peakhurst



**Figure 5:** Existing dwelling at No 33 Bailey Parade, Peakhurst



34. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing dwellings on properties with similar site characteristics and topography. It is acknowledged an educational establishment is located to the north-west of the site.

### Surrounding Development

35. Adjoining the site immediately to the west at No 35 Bailey Parade is a single storey rendered/clad dwelling with metal roof, with a two storey dwelling with tile roof at No 37 Bailey Parade.



Figure 6: Existing dwellings at No 35 and No 37 Bailey Parade, Peakhurst

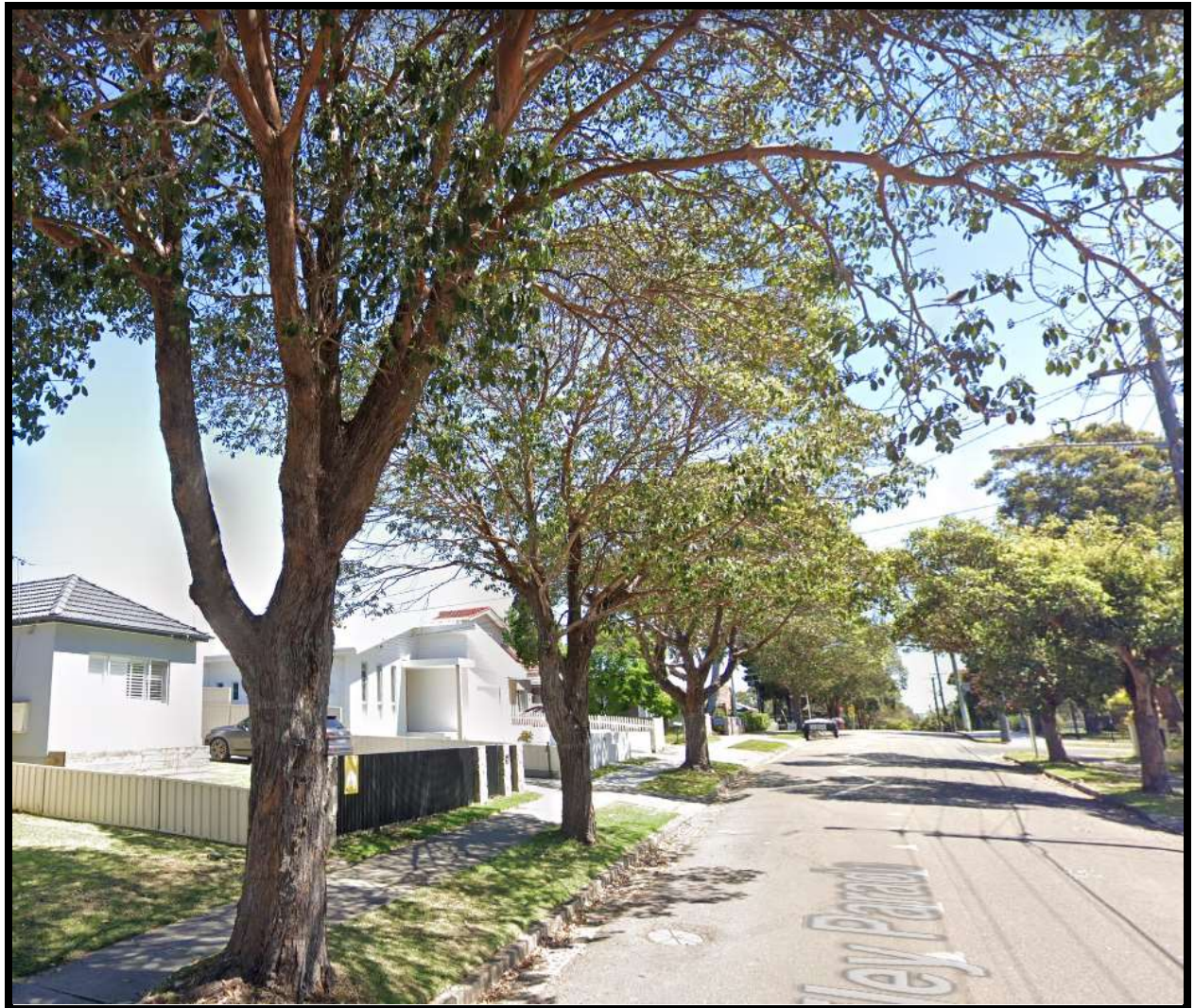
36. Adjoining the site to the east at No 29 Bailey Parade is a single storey clad dwelling with tile roof and detached building located at the rear of the allotment. Further to the east at No 27 is a single storey clad dwelling with tile roof.



Figure 7: Existing dwellings at No 27 and 29 Bailey Parade, Peakhurst



37. Bailey Parade is a narrow local street with a width of 7.5m and contains a number of street trees along both sides of the street with two *Lophostemon confertus* street trees located within the frontage of the subject development site.



**Figure 8:** View along Bailey Parade showing the existing street trees outside the subject site.

38. To the north east of the subject site located at 65A Bailey Parade is Peakhurst Public School.

### Compliance and Assessment

39. The development site has been inspected and assessed having regard to the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

### State Environmental Planning Instruments

40. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	No
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No.55 – Remediation of Land	Yes

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Educational and Child Care Facilities) 2017	No

41. The following SEPPs have been repealed and replaced with consolidated SEPP's. They have however been included in this report as they were relevant at the time of lodgement of this application. The provisions within the repealed SEPP's have been transferred to the new SEPP's which have been assessed below, with the intent and provisions remaining largely unchanged.

- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

#### Consolidation of State Environmental Planning Policies.

42. The NSW Government has combined State Environmental Planning Policies and reduced their number.
43. The SEPP changes are part of a package of reforms to consolidate 45 existing SEPPs into 11 new SEPPs based on 9 themed focus areas. The initiative aligns the proposed SEPPs with the new planning principles thematic framework.
44. The following SEPPs began on 1 March 2022. The provisions within the repealed SEPPs have been transferred to the new SEPP and the intent and provisions remain largely unchanged.
45. No policy changes have been made. The SEPP consolidation does not change the legal effect of the existing SEPPs, with section 30A of the Interpretation Act 1987 applying to the transferred provisions. The SEPP consolidation is administrative. It has been undertaken in accordance with section 3.22 of the Environmental Planning and Assessment Act 1979.
46. Savings and transitional provisions, which preserve particular rights and obligations from the SEPPs being repealed, have not been transferred. However, all savings and transitional provisions of the repealed SEPPs are still in force despite their repeal, due to sections 5(6) and 30(2)(d) of the Interpretation Act 1987.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

47. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Coastal Management) 2018;*
  - *State Environmental Planning Policy No 33—Hazardous and Offensive Development;* and
  - *State Environmental Planning Policy No 55—Remediation of Land.*



Chapter 4 Remediation of Land

48. Chapter 4 of the SEPP relating to remediation of land applies to the site.
49. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
50. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site.

51. The SEE provided had conflicting statements, on page 23 the SEE stated the following:

*The development site has historically been utilised for residential purpose with no known potential contaminating activities being conducted on site. A Detailed Site Investigation found that the risk to human health and the environment associated with soil contamination at the site was low and that it was suitable for the proposed development.*

On page 43 the SEE stated the following:

*The development site has historically been utilised for residential purpose with no known potential contaminating activities being conducted on site. No contamination report has been carried out to date and this is a matter for consideration by Council.*

The applicant confirmed that the correct statement was the comments made on page 43.

52. The proposal is considered to be consistent with Chapter 4 and therefore suitable for the proposed development.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

53. The Biodiversity and Conservation SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
  - *State Environmental Planning Policy (Koala Habitat Protection) 2020;*
  - *State Environmental Planning Policy (Koala Habitat Protection) 2021;*
  - *Murray Regional Environmental Plan No 2—Riverine Land;*
  - *State Environmental Planning Policy No 19—Bushland in Urban Areas;*
  - *State Environmental Planning Policy No 50—Canal Estate Development;*
  - *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
  - *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997);*
  - *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
  - *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment; and*
  - *Willandra Lakes Regional Environmental Plan No 1—World Heritage Property.*

Chapter 2 Vegetation in non-rural areas

54. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.

55. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
56. Chapter 2 applies to the clearing of:
  - (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
  - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
57. The objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP.
58. The proposal was referred to Council's Consultant Arborist initially and then to Council's Senior Landscape & Arboriculture Assessment Officer for comment. The street trees are the responsibility of Council's Team Leader Tree Maintenance, who advised they do not support the proposal in its current form. There are 2 x *Lophostemon confertus* street trees that the applicant has previously been advised to retain as a priority due to the fact they are part of an existing avenue of the same species and maturity and in good condition. Removal and replacement would cause disruption to the tree avenue that presently creates a desirable streetscape and softens the built environment. The plans indicate retention and the AIA (Arboricultural Impact Assessment) supplied supports this, however Council's Engineer has advised that the proposed SW connection to the street cannot be run as shown on the amended plans and will need to go through the SRZ for the street tree on the eastern side.
59. The root mapping report indicates several structural tree roots at 200mm depth located between the proposed eastern driveway and the tree and as such, the proposed eastern driveway and any proposed SW services will be required to be constructed so as not to interfere with structural tree roots with a maximum excavation depth of 150mm. Council's Engineer has advised that the 100mm RHS would need 100mm soil coverage making the location of the RHS in this area unachievable.
60. In relation to the street tree located on the western side, it is recommended that the driveway arrangement be realigned to allow an increased setback. An amended landscape plan would be required to be submitted, should the application be in a position to be favourably determined.

#### Chapter 6 Water Catchments.

61. Chapter 6 of the SEPP relating to water catchments applies to the site.
62. The drainage plans have been amended on several occasions to address the concerns raised by Council's Senior Drainage Engineer. To date these concerns have not been satisfactorily resolved. The amended drainage plan was reviewed by Council's Senior Drainage Engineer, the proposed drainage plan remains unsatisfactory and not supported. Further amendments are required.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

63. The Transport and Infrastructure SEPP has replaced and repealed the following SEPPs:
  - *State Environmental Planning Policy (Infrastructure) 2007;*

- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
- *State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and*
- *State Environmental Planning Policy (Three Ports) 2013.*

### Chapter 2 Infrastructure

64. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was raised to the proposal.

### Chapter 3 Educational establishments and childcare facilities

65. Section 1(1) in Schedule 9 of SEPP (Transport and Infrastructure) 2021 provides that Chapter 3 of the SEPP Transport and Infrastructure does not apply to a DA made before the commencement of the SEPP (Transport and Infrastructure) 2021.

*(1) Chapter 3 does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of Chapter 3.*

66. Section 1(5) of Schedule 9 provides that a such a DA is to be assessed as if Chapter 3 had not been made.

*(5) Subject to subsection (2), an application to which subsection (1), (3) or (4) applies is to be determined as if Chapter 3 had not been made.*

67. The State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 is therefore the applicable SEPP the application is to be assessed under.

### **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

68. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education and Child Care SEPP) commenced on 1 September 2017 and aims to facilitate the effective delivery of educational establishments and early education and childcare facilities across the State.

The below compliance table summarises compliance with the SEPP with regard to its specific requirements for early education and care facilities.

Clause	Standard	Proposal	Complies
<b>Part 3 Early education and care facilities—specific development controls</b>			
<b>Clause 22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development</b>			
<b>22(1)</b> This clause applies to development for the purpose of a centre-based child care facility if—			
<b>22(1)(a)</b>	(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or	N/A as the proposed development complies with the requirements of Regulation 107 of the Education and Care Services National Regulations. 190sqm of indoor unencumbered space has been provided for 56 children or 3.39sqm per child	N/A

	<ul style="list-style-type: none"> <li>• 3.25sqm per child required</li> </ul>		
<b>22(1)(b)</b>	<p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p> <ul style="list-style-type: none"> <li>• 7sqm per child required</li> </ul>	N/A as the proposed development complies with the requirements of Regulation 108 of the Education and Care Services National Regulations. 393sqm of outdoor unencumbered area has been provided for 56 children or 7.03sqm per child.	N/A
<b>22 (2)</b>	The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.	No concurrence required as the indoor and outdoor space requirements are met.	Yes
<b>Clause 23 Centre based child care facility - Matters for consideration by consent authority</b>			
<b>23</b>	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	Refer to the Table below for an assessment of the proposal against the provisions of the Child Care Planning Guideline.	(refer to the table below)
<b>Clause 24A Centre-based child care facility— floor space ratio</b>			
<b>24A (1)</b>	Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.	409sqm (0.417:1)	Yes, however is overridden by HLEP 2012 (see 24A (2) below)
<b>24A (2)</b>	This section does not apply if another environmental planning instrument or a development control plan sets a maximum	HLEP sets a maximum floor space ratio of 0.6:1, as such this control is not applicable.	N/A

	floor space ratio for the centre-based child care facility.		
<b>Clause 25 – Centre based child care facility - Non-discretionary development standards</b>			
<b>25 (1)</b>	The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.	The proposal generally complies with this section.	Yes
<b>25 (2)</b>	The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—	See below.	
<b>25 (2)(a)</b>	<u>Location</u> The development may be located at any distance from an existing or proposed early education and care facility,	Noted	Yes
<b>25 (2)(b)</b>	<u>Indoor or outdoor space</u> (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or	The proposed development complies with the requirements of Regulation 107 and 108 of the Education and Care Services National Regulations.	Yes



	(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,		
<b>25 (2)(c)</b>	<u>Site area and site dimensions</u> The development may be located on a site of any size and have any length of street frontage or any allotment depth,	Noted	Yes
<b>25 (2)(d)</b>	<u>Colour of building materials or shade structures</u> The development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	The materials and finishes are generally acceptable. The site is not a heritage item nor is it located within a heritage conservation area.	Yes
<b>Clause 26 - Centre-based child care facility —development control plans</b>			
<b>26 (1)</b>	A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility: (a) operational or management plans or arrangements (including hours of	The contents of the clause are noted.  The proposed child care facility has been assessed under the SEPP and Child Care Planning Guidelines together with the relevant sections of the Hurstville DCP No 1.  The controls within Hurstville DCP, with the exception of building height, side and rear setbacks, and car parking, are over ridden by the SEPP and do not apply to the proposal.	Noted.

	<p>operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p>		
<b>26 (2)</b>	This clause applies regardless of when the development control plan was made	Noted.	Yes

#### Child Care Planning Guidelines

69. Section 3 of Schedule 5 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that an amendment to this policy made by the State Environmental Planning Policy (Educational Establishments and Child Care Centre Facilities) Amendment 2021 does not apply to a development application made but not finally determined before the commencement of that Policy.
70. The development application was lodged on 13 May 2021, prior to the Child Care Planning Guideline approved by the Planning Secretary and published in the Gazette on 1 October 2021, which was updated on the NSW Legislation website on 17 December 2021. As such the applicable Child Care Planning Guidelines is the document titled Child Care Planning Guidelines, published in the gazette by the Secretary on 1 September 2017.
71. The below table summarises compliance with the Child Care Planning Guideline as required by clause 23 of the SEPP (Educational Establishments and Child Care Facilities) 2017.

<b>Table 2 - Child Care Planning Guideline</b>	
<b>Requirement</b>	<b>Comment</b>
<b>3.1 Site selection and location</b>	
<b>To ensure that appropriate zone considerations are assessed when selecting a site</b>	
<b>C1 For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses, consider:</b>	
<ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> </ul>	An acoustic report has been submitted with the application and has been reviewed by Councils Environmental Health Officer and found to be acceptable.
<ul style="list-style-type: none"> <li>the setbacks and siting of buildings within the residential context</li> </ul>	The proposed setbacks are compliant with Councils controls and generally consistent with other development within the street.
<ul style="list-style-type: none"> <li>traffic and parking impacts of the proposal on residential amenity</li> </ul>	Parking is numerically compliant; however concern is raised with the traffic and parking impacts generated by the development.
<b>To ensure that the site selected for a proposed child care facility is suitable for the use:</b>	
<b>C2 When selecting a site, ensure that:</b>	
<ul style="list-style-type: none"> <li>the location and surrounding uses are compatible with the proposed development or use</li> </ul>	The use as a child care centre is a permissible land use in the zone.
<ul style="list-style-type: none"> <li>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> </ul>	The site is not affected by flooding, land slip, bushfire or coastal hazards.
<ul style="list-style-type: none"> <li>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> </ul>	The historical use of the site has been for residential purposes with no known potential contamination activities occurring on site.
<ul style="list-style-type: none"> <li>the characteristics of the site are suitable for the scale and type of development proposed having regard to:               <ul style="list-style-type: none"> <li>length of street frontage, lot configuration, dimensions and overall size</li> <li>number of shared boundaries with residential properties</li> </ul> </li> </ul>	The characteristics of the site in terms of street frontage lot configuration, dimensions and overall size is considered appropriate for a child care centre.

<ul style="list-style-type: none"> <li>the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> </ul>	The proposed development will have an adverse impact on traffic movements within the street given the narrow width of the road.
<ul style="list-style-type: none"> <li>where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use</li> </ul>	N/A – new building proposed.
<ul style="list-style-type: none"> <li>there are suitable drop off and pick up areas, and off and on street parking</li> </ul>	There is suitable drop off and pick up areas within the basement, however the narrow road width will have an adverse impact on on-street parking and vehicle movements within the street.
<ul style="list-style-type: none"> <li>the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use</li> </ul>	Council's Traffic Engineer has raised concerns with traffic movements and vehicles entering and exiting the development due to the narrow road width. Given there are no parking restrictions within the street and the street is used for parking and as a thoroughfare for nearby schools, any vehicle entering or exiting the development would have difficulties manoeuvring into or out of the site if a vehicle was parked near the driveways. Concern is also raised that as the narrow road width would only permit a single vehicle between parked cars, any vehicle exiting the site would have to enter the single lane and have nowhere to go should a vehicle be coming the other way. The exit ramp also fails to provide a compliant ramp grade which has an adverse impact in terms of sightlines when exiting.
<ul style="list-style-type: none"> <li>it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises</li> </ul>	It is not located near any of these incompatible uses.
<b>To ensure that sites for child care facilities are appropriately located:</b>	
<b>C3 A child care facility should be located:</b>	
<ul style="list-style-type: none"> <li>near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> </ul>	The site is located in close proximity to educational establishments, parks and other public open space.
<ul style="list-style-type: none"> <li>near or within employment</li> </ul>	The subject site is located near a number of centres.

areas, town centres, business centres, shops	
<ul style="list-style-type: none"> <li>with access to public transport including rail, buses, ferries</li> </ul>	Bus services are located within close proximity.
<ul style="list-style-type: none"> <li>in areas with pedestrian connectivity to the local community, businesses, shops, services and the like</li> </ul>	Bus services are located within close proximity.
<b>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.</b>	
<b>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to:</b>	
<ul style="list-style-type: none"> <li>heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>LPG tanks or service stations</li> <li>water cooling and water warming systems</li> <li>odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> </ul>	The historical use of the site has been for residential purposes with no known potential contamination activities occurring on site.
<b>3.2 Local character, streetscape and the public domain interface</b>	
<b>To ensure that the child care facility is compatible with the local character and surrounding streetscape</b>	
<b>C5 The proposed development should:</b>	
<ul style="list-style-type: none"> <li>contribute to the local area by being designed in character with the locality and existing streetscape</li> </ul>	The building presents as a two storey building, which is consistent with the one and two storey dwellings within Bailey Parade and surrounding streets.
<ul style="list-style-type: none"> <li>reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> </ul>	Surrounding land uses are dwelling houses. The built form is consistent with the scale of a dwelling houses.
<ul style="list-style-type: none"> <li>recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours</li> </ul>	Generally acceptable and consistent with dwelling house developments within the streetscape.
<ul style="list-style-type: none"> <li>include design and architectural treatments that respond to and integrate with the existing streetscape</li> </ul>	The built form generally responds to development within the street.
<ul style="list-style-type: none"> <li>use landscaping to</li> </ul>	A landscape plan has been provided, however will



positively contribute to the streetscape and neighbouring amenity	require further amendments as it remains unsatisfactory.
<ul style="list-style-type: none"> <li>integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	Car parking has been integrated within the child care centre in the form of basement parking. The basement has a separate access and egress locations.
<b>To ensure clear delineation between the child care facility and public spaces:</b>	
<b>C6 Create a threshold with a clear transition between public and private realms, including:</b>	
<ul style="list-style-type: none"> <li>fencing to ensure safety for children entering and leaving the facility</li> </ul>	Fencing has been provided to ensure safety for children entering and exiting the premises.
<ul style="list-style-type: none"> <li>windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community</li> </ul>	Windows are considered appropriate for surveillance.
<ul style="list-style-type: none"> <li>integrating existing and proposed landscaping with fencing.</li> </ul>	Landscaping is integrated into the fencing.
<b>C7 On sites with multiple buildings and/or entries,</b>	
<ul style="list-style-type: none"> <li>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</li> </ul>	The site does not contain multiple buildings.
<b>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</b>	
<ul style="list-style-type: none"> <li>Clearly defined street access, pedestrian paths and building entries</li> </ul>	N/A the site does not adjoin a public park, open space or bushland.
<ul style="list-style-type: none"> <li>Low fences and planting which delineate communal/private open space from adjoining public open space.</li> </ul>	N/A the site does not adjoin a public park, open space or bushland.
<ul style="list-style-type: none"> <li>Minimal use of blank walls and high fences.</li> </ul>	N/A the site does not adjoin a public ark, open space or bushland.
<b>To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain</b>	
<b>C9 Front fences and walls</b>	
Front fences and walls within	The subject site is not a heritage site, adjacent to a

the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	heritage item or within a conservation area.
<b>C10 High solid acoustic fencing</b>	
High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	Subject site is not on a classified road.
<b>3.3 Building orientation, envelope and design</b>	
<b>To respond to the streetscape and site, while optimising solar access and opportunities for shade.</b>	
<b>C11 Orient a development on a site and design the building layout to:</b>	
<ul style="list-style-type: none"> <li>ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by               <ul style="list-style-type: none"> <li>facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>placing play equipment away from common boundaries with residential properties</li> <li>locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> </ul>	<p>The proposed building has been designed to satisfy the requirements of C11.</p> <p>The building has been designed to ensure visual privacy and potential noise impacts are minimised on neighbouring properties.</p>
<ul style="list-style-type: none"> <li>optimise solar access to internal and external play areas</li> </ul>	Solar access to internal and external play areas has been maximised.
<ul style="list-style-type: none"> <li>avoid overshadowing of adjoining residential properties</li> </ul>	Overshadowing has been minimised through the siting and design of the building.
<ul style="list-style-type: none"> <li>minimise cut and fill</li> </ul>	Cut and fill has been minimised to the extent of the basement.
<ul style="list-style-type: none"> <li>ensure buildings along the</li> </ul>	Generally acceptable, the entrance faces the street.

street frontage define the street by facing it	
<ul style="list-style-type: none"> <li>ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	Generally within an area protected from the elements.
<b>To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</b>	
<b>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</b>	
<ul style="list-style-type: none"> <li>building height should be consistent with other buildings in the locality</li> <li>building height should respond to the scale and character of the street</li> <li>setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>setbacks should provide adequate access for building maintenance</li> <li>setbacks to the street should be consistent with the existing character.</li> </ul>	The building height and setbacks are consistent with other developments within Bailey Parade.
<b>To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context:</b>	
<b>C13 Setbacks</b>	
Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use	<p>The site is not located on a classified road.</p> <p>The applicant has not provided numeric details of the adjoining building setbacks.</p> <p>The proposed front setback with its varying articulated elements, is not considered to be out of character with the adjoining properties. Clarification of the existing setbacks of No 29 and 35 Bailey Parade need to be provided to determine the required setback.</p>
<b>C14 Side and rear boundary setbacks</b>	
On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house	The side and rear boundary setbacks are consistent with the prevailing setbacks required for a dwelling house.
<b>To ensure that the built form, articulation and scale of development relates to its</b>	

**context and buildings are well designed to contribute to an areas character.**

**C15 The built form of the development should contribute to the character of the local area, including how it:**

<ul style="list-style-type: none"> <li>• respects and responds to its physical context such as adjacent built form, neighbourhood character, streetscape quality and heritage</li> <li>• contributes to the identity of the place</li> <li>• retains and reinforces existing built form and vegetation where significant</li> <li>• considers heritage within the local neighbourhood including identified heritage items and conservation areas</li> <li>• responds to its natural environment including local landscape setting and climate</li> <li>• contributes to the identity of place.</li> </ul>	<p>The proposed development is of a scale and size consistent with that of a two storey dwelling house with basement parking.</p>
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**To ensure that buildings are designed to create safe environment for all users.**

**C16 Entry to the facility should be limited to one secure point which is:**

<ul style="list-style-type: none"> <li>• located to allow ease of access, particularly for pedestrians</li> </ul>	<p>The entry is limited to the main entrance accessed via Bailey Parade.</p>
<ul style="list-style-type: none"> <li>• directly accessible from the street where possible</li> </ul>	<p>Directly accessible from street.</p>
<ul style="list-style-type: none"> <li>• directly visible from the street frontage</li> </ul>	<p>Directly visible from street frontage</p>
<ul style="list-style-type: none"> <li>• easily monitored through natural or camera surveillance</li> </ul>	<p>Easily monitored.</p>
<ul style="list-style-type: none"> <li>• not accessed through an outdoor play area.</li> </ul>	<p>Not accessed via an outdoor play area.</p>
<ul style="list-style-type: none"> <li>• in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	<p>N/A as not a mixed use development.</p>

**To ensure that child care facilities are designed to be accessible by all potential users:**

**C17- Accessible design can be achieved by:**

<ul style="list-style-type: none"> <li>• providing accessibility to and within the building in accordance with all relevant legislation</li> </ul>	<p>The development has been designed to be accessible. An access report was submitted with the application which addresses accessibility. The report indicates that the proposal achieves the spatial</p>
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	requirements to provide access for people with a disability with detailed requirements being shown and specified on CC plans.
<ul style="list-style-type: none"> <li>linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> </ul>	Accessible ramps have been provided from the street to the main building entry.
<ul style="list-style-type: none"> <li>providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible.</li> </ul>	Continuous path of travel has been provided within the building. An accessible car parking space has been provided and a lift provides access from the basement level throughout the building.
<b>3.4 Landscaping</b>	
<b>To provide landscape design that contributes to the streetscape and amenity.</b>	
<b>C18 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</b>	
<ul style="list-style-type: none"> <li>reflecting and reinforcing the local context</li> <li>incorporating natural features of the site, such as trees, rocky outcrops and vegetation communities into landscaping.</li> </ul>	A Landscape plan has been submitted. Whilst the screen planting along the rear boundary is acceptable, there are concerns with the soil depth and area available for the screen planting along the western boundary and the treatment of the street trees.
<b>C19 Incorporate car parking into the landscape design of the site by:</b>	
<ul style="list-style-type: none"> <li>planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> </ul>	A single level basement car park has been proposed.
<ul style="list-style-type: none"> <li>taking into account streetscape, local character and context when siting car parking areas within the front setback.</li> </ul>	A single level basement car park has been proposed
<ul style="list-style-type: none"> <li>using low level landscaping to soften and screen parking areas.</li> </ul>	A single level basement car park has been proposed
<b>3.5 Visual and acoustic privacy</b>	
<b>To protect the privacy and security of children attending the facility.</b>	
<b>C20 Balconies</b>	
Open balconies in mixed use	The proposal is not a mixed use development.



developments should not overlook facilities nor overhang outdoor play spaces.	
<b>C21 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</b>	
<ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitably locating pathways, windows and doors</li> <li>• permanent screening and landscape design.</li> </ul>	The development has been designed to minimise overlooking of indoor rooms and outdoor play spaces from public areas through appropriate building layouts, window design and plantings.
<b>To minimise impacts on privacy of adjoining properties</b>	
<b>C22- Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</b>	
<ul style="list-style-type: none"> <li>• appropriate site and building layout</li> <li>• suitable location of pathways, windows and doors</li> <li>• landscape design and screening</li> </ul>	The development has been designed to minimise impacts upon neighbouring property owners through the location of the building including windows and doors, provision of landscaping screening and acoustic fencing as per the acoustic report.
<b>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</b>	
<b>C23- A new development, or development that includes alterations to more than 50 per cent of the existing floor area and is located adjacent to residential accommodation.</b>	
<ul style="list-style-type: none"> <li>• provide an acoustic fence along any boundary where the adjoining property contains a residential use. (An acoustic fence is one that is a solid, gap free fence).</li> </ul>	An acoustic report has been provided with the application which requires acoustic fencing to be provided along the side and rear boundaries. The acoustic fencing is consistent with the recommendations of the acoustic report.
<ul style="list-style-type: none"> <li>• ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ul>	The acoustic assessment provided demonstrates the acoustic impacts generated will comply with the relevant standards subject to compliance with the acoustic report.
<b>C24 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</b>	
<ul style="list-style-type: none"> <li>• identify an appropriate noise level for a child care facility located in residential and other zones</li> </ul>	An acoustic report has been provided detailing specific requirements in this regard.
<ul style="list-style-type: none"> <li>• determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> </ul>	Section 4 of the acoustic report provides background noise levels. Whilst this assessment has been carried out stating they have applied a worst case scenario where all children are using the outdoor area at the same time, the acoustic report recommends that younger and older children are in the play areas at

	different times it does not appear to take this into account. The acoustic report should provide restrictions on the use of the outdoor area to minimise noise impacts by restricting children numbers throughout the day in the outdoor area and the Plan of Management should be updated to restrict the number of children in the outdoor areas.
<ul style="list-style-type: none"> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	Section 8.7 of the acoustic report details the height and forms of acceptable construction of acoustic fencing required to be provided.
<b>3.6 Noise and air pollution</b>	
<b>To ensure that outside noise levels on the facility are minimised to acceptable levels.</b>	
<b>C25- Adopt design solutions to minimise the impacts of noise</b>	
<ul style="list-style-type: none"> <li>creating physical separation between buildings and the noise source</li> </ul>	An acoustic report has been provided which addresses ways to minimise the impacts of noise.
<ul style="list-style-type: none"> <li>orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> </ul>	The orientation of the facility is considered appropriate. Where possible windows have been minimised and screen planting provided to minimise potential noise impacts.
<ul style="list-style-type: none"> <li>using landscaping to reduce the perception of noise.</li> </ul>	The proposal provides screen planting to minimise impacts from noise.
<ul style="list-style-type: none"> <li>limiting the number and size of openings facing noise sources.</li> </ul>	There are no windows proposed on the eastern elevation of the ground floor 3-5 room, with the windows facing west on the ground floor setback in excess of 4m to provide suitable separation. There are no children play rooms on the first floor however generous 4.21m setback to the eastern boundary with only a small window in the kitchen. Whilst there are windows within the first floor staff, office and sitting room, the building is setback 10.55m from the western boundary.
<ul style="list-style-type: none"> <li>using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> </ul>	The acoustic report does not provide any recommendations on the use double or acoustic glazing, although they do recommend that should complaints be received that windows and doors facing towards these residences be closed. No balconies proposed.
<ul style="list-style-type: none"> <li>using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> </ul>	Materials proposed are acceptable. No balconies proposed.
<ul style="list-style-type: none"> <li>locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	Cot rooms have been located on the eastern side of the building approximately 4m from the side boundary.

**C26- An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:**

<ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25, consistent with AS 2021 – 2000</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	<p>The subject site is not located on industrial land or along a railway or mass transit corridor or on a major or busy road. It is also not located on land where the ANEF contour is between 20 and 25.</p> <p>An acoustic report has been provided which addresses noise. This has been discussed under C23 – C25 above.</p>
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**To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development**

**C27 – Child care location on site**

Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.	The site is not located within an industrial area or within the vicinity of a major road.
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**C28 Air quality report**

A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	The subject site is not located near a major road or industrial development.
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**3.7 Hours of operation**

**To minimise the impact of the child care facility on the amenity of neighbouring residential developments**

**C29 Hours of Operation**

Hours of operation within areas where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	Hours of operation are proposed between 6.30am to 6.30pm Monday to Friday. Should the application be approved the operational hours are recommended to be between the hours of 7.00am and 6.30pm consistent with the Planning Guideline requirements.
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<b>C30 Mixed Use areas</b>	
Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	N/A, not within a mixed use area or commercial area.
<b>3.8 Traffic, parking and pedestrian circulation</b>	
<b>To provide parking that satisfies the needs of users and demand generated by the centre.</b>	
<b>C31 Off Street Parking</b>	
Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	The parking has been assessed in the DCP section below.
<b>C32 Commercial or industrial zones and mixed use developments</b>	
In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	N/A, not a mixed use development and not in a commercial or industrial zone.
<b>C33 Traffic and Parking Study</b>	
<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected.</li> <li>There will be no impacts on the safe operation of the surrounding road network</li> </ul>	<p>A Traffic and Parking Assessment Report was provided with the DA.</p> <p>Council's Traffic Engineer has advised that the traffic generated from the proposed development will have an adverse impact upon the surrounding area given the narrow road width. Entering and exiting the site will be difficult especially when vehicles are parked on either sides of the driveways. Making this difficult is that there are no parking restrictions within the street to prevent people from parking adjacent to the driveway entry and exit. There will also be sightline issues from exiting the building given the non-compliant exit ramp. The road is currently used as a thoroughfare and for parking for the nearby schools and there is already significant traffic congestion</p>

	generated.
<b>To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.</b>	
<b>C34 Alternate vehicular access should be provided where child care facilities are on site fronting:</b>	
<ul style="list-style-type: none"> <li>a classified road</li> <li>roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>the prevailing traffic conditions</li> <li>pedestrian and vehicle safety including bicycle movements</li> <li>the likely impact of the development on traffic.</li> </ul>	N/A, not on a classified road.
<b>C35 Child care facilities within cul-de-sacs, narrow lanes or roads</b>	
Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.	<p>Not located within a cul-de-sac or narrow lane.</p> <p>The site is however located within a narrow road which has adverse impacts on traffic movements within the street.</p>
<b>To provide a safe and connected environment for pedestrians both on and around the site.</b>	
<b>C36 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</b>	
<ul style="list-style-type: none"> <li>separate pedestrian access from the car park to the facility</li> </ul>	The proposed development provides separate pedestrian access and vehicular access from the street to the entry and within the basement carpark.
<ul style="list-style-type: none"> <li>defined pedestrian crossings included within large car parking areas</li> </ul>	A pedestrian path is defined in the basement.
<ul style="list-style-type: none"> <li>separate pedestrian and vehicle entries from the street for parents, children and visitors</li> </ul>	Separate pedestrian and vehicular entry/exit points from the street to the development.
<ul style="list-style-type: none"> <li>pedestrian paths that enable two prams to pass each other</li> </ul>	The pedestrian path only permits a single pram movement.
<ul style="list-style-type: none"> <li>delivery and loading areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> </ul>	Any deliveries would be located away from pedestrian access. A loading bay is located within the basement that will also be utilised for collection of waste and recycling.

<ul style="list-style-type: none"> <li>in commercial or industrial zones and mixed use developments, the path of travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas</li> </ul>	N/A – this is low density zoned land.
<ul style="list-style-type: none"> <li>vehicles can enter and leave the site in a forward direction.</li> </ul>	Vehicles can enter and exit the site in a forward direction with an entry ramp located on the eastern side of the development site and an exit ramp located on the western side of the development site.
<b>C38 Car parking Design should:</b>	
<ul style="list-style-type: none"> <li>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> </ul>	An accessible car space has been provided within the basement adjacent to the lift.
<b>Applying the National Regulations to development proposals</b>	
<b>A. Internal physical environment</b>	
<b>4.1 Indoor space requirements</b>	
<b>Regulation 107 - Education and Care Services National Regulations</b>	
Every child being educated and cared for within a facility must have a minimum of 3.25sqm of unencumbered indoor space.	The proposal provides 190sqm of unencumbered indoor space, which equates to 3.39sqm per child based on 56 children.
<b>Verandahs as indoor space</b> For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.	No verandah has been included as unencumbered indoor space.
<b>Storage</b> It is recommended that a child care facility provide: <ul style="list-style-type: none"> <li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>a minimum of 0.2m<sup>3</sup> per child of internal storage space</li> </ul>	The proposal provides compliant internal and external storage areas.
<b>4.2 Laundry and hygiene facilities</b>	
<b>Regulation 106 Education and Care Services National Regulations</b>	
There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing,	On-site laundry facilities are provided on Level 1 of the building. Whilst a space has been provided between the accessible WC and the staff room, a detailed layout plan should be provided confirming

<p>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>On site laundry facilities should contain:</p> <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children.</li> </ul>	<p>that the area proposed will be adequately sized to accommodate on site laundry facilities in accordance with the regulations.</p>
<b>4.3 Toilet and hygiene facilities</b>	
<b>Regulation 109 Education and Care Services National Regulations</b>	
<p>Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code</p>	<p>Toilet facilities for both children and staff have been provided.</p>
<b>4.4 Ventilation and natural light</b>	
<b>Regulation 110 Education and Care Services National Regulations</b>	
<p>Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children</p>	<p>Generally acceptable.</p>
<b>4.5 Administrative space</b>	
<b>Regulation 111 Education and Care Services National Regulations</b>	
<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>Adequate areas have been provided within the ground floor admin area and the first floor office and staff room.</p>
<b>4.6 Nappy change facilities</b>	
<b>Regulation 112 Education and Care Services National Regulations</b>	
<p>Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy</p>	<p>Nappy change facilities have been provided.</p>

<p>changing and bathing.</p> <p>Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	
<b>4.7 Premises designed to facilitate supervision</b>	
<b>Regulation 115 Education and Care Services National Regulations</b>	
<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.</p>	<p>The building design is considered to meet these requirements to facilitate supervision.</p>
<b>4.8 Emergency and evacuation procedures</b>	
<b>Regulation 97 and 168 Education and Care Services National Regulations</b>	
<p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>An emergency and evacuation plan should be submitted with a DA.</p> <ul style="list-style-type: none"> <li>the mobility of children and how this is to be accommodated during an evacuation</li> <li>the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> <li>how children will be supervised during the evacuation and at the congregation/assembly</li> </ul>	<p>No emergency evacuation plan has been submitted.</p> <p>The applicant has advised that an emergency evacuation plan is to be prepared prior to operation. It is expected that this is provided for review prior to any DA approval.</p> <p>The building is to comply with the requirements of the NCC BCA.</p>



point, relative to the capacity of the facility and governing child-to-staff ratios.

## **B. External physical environment**

### **4.9 Outdoor space requirements**

#### **Regulation 108 Education and Care Services National Regulations**

An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0sqm of unencumbered outdoor space.

#### Simulated outdoor environments

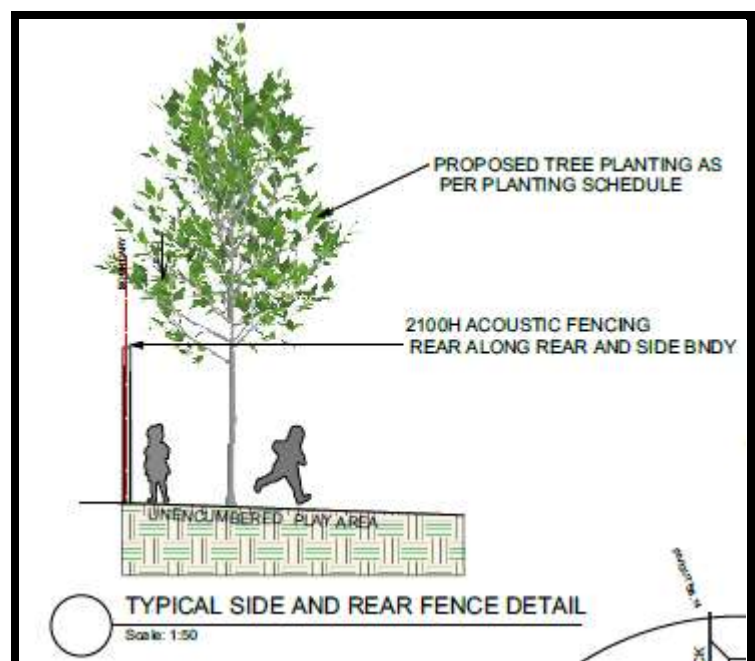
Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:

- more access to natural light and ventilation than required for an internal space through large windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility
- skylights to give a sense of the external climate
- a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment
- sand pits and water play areas
- furniture made of logs and stepping logs
- dense indoor planting and green vegetated walls
- climbing frames, walking and/or bike tracks

The proposal provides 394sqm of unencumbered outdoor space, which equates to 7.03sqm per child based on 56 children.

Note: The outdoor unencumbered area has screen planting along the western and southern boundaries. Dense planting would be excluded from the outdoor area calculations; however, the landscape plan demonstrates that the trees will be maintained to permit this area between trees to be used by the children.

Council's Senior Landscape & Arboriculture Assessment Officer has advised that the screen planting species (*Waterhousea floribunda*) proposed can be maintained to provide the dense part of the tree at and above the fence height to permit an area between trees that can be utilised (see detail below).



• vegetable gardens and gardening tubs.	
<b>4.10 Natural environment</b>	
<b>Regulation 113 Education and Care Services National Regulations</b>	
The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	The landscape plan shows a range of outdoor amenities including sandpits, outdoor play equipment and an outdoor soft fall area. Artificial grass has been provided in lieu of natural grass in some areas.
<b>4.11 Shade</b>	
<b>Regulation 114 Education and Care Services National Regulations</b>	
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.	Appropriate shade structures are incorporated into the design of the child care facility to protect children from overexposure to ultraviolet radiation from the sun.
<b>4.12 Fencing</b>	
<b>Regulation 104 Education and Care Services National Regulations</b>	
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.	Appropriate fencing has been proposed to be installed having regard to the acoustic report recommendations.
<b>4.13 Soil assessment</b>	
<b>Regulation 25 Education and Care Services National Regulations</b>	
Clause 25 (d) of Education and Care Services National Regulations 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.	The development site has been historically used for residential purposes with no known potential contaminating activities occurring on the site.

### Education and Care Services National Regulations (2011 SI 653)

72. The National Regulations govern the operation and minimum requirements for child care facilities. These legislative and regulatory controls establish minimum provisions in relation to insurance, service agreements and approvals as well as establishing minimum operational requirements.
73. The table above considered the proposal against the provisions of the Child Care Facility Guidelines. Part 4 of the Guidelines relates to compliance with the National Regulations for development proposals and assists applicants and child care providers in applying the national regulations. This part covers minimum requirements for the internal physical environment, external physical environment, provides a best practice example and includes a checklist to assist with the planning, design and layout of a purpose built child care facility or where significant changes are proposed.
74. The regulations provide minimum standards for the following elements of the centre;

- Fencing and barriers that enclose outdoor spaces.
- Laundry and hygiene facilities,
- Minimum requirements for unencumbered indoor space,
- Minimum requirements for unencumbered outdoor space,
- Toilet and hygiene facilities,
- Minimum standards for ventilation and natural light,
- Provision of administration space,
- Nappy change facilities,
- Outdoor space and the natural environment,
- Outdoor space and the provision of shade, and
- Premises designed to facilitate supervision.

75. Of importance to this application is Clause 123 of the National Regulations which specifies minimum “*educator to child ratios*”. Subclause 1 establishes numerical requirements which require the following minimum provisions;

- “(1) *The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—*
- (a) for children from birth to 24 months of age—1 educator to 4 children;*
  - (b) for children over 24 months and less than 36 months of age—1 educator to 5 children;*
  - (c) for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;*
  - (d) for children over preschool age, 1 educator to 15 children.*
- (2) If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of sub regulation (1) at all times.”*

### **Part 7.3 New South Wales – specific provisions**

76. Part 7.3 of the Regulations relates to specific provisions for development in New South Wales.

77. Division 2 (Minimum number of educators and qualifications and training required) establishes Clause 271 which states that

*“Educator to child ratios – children aged 36 months or more but less than 6 years;*

- (1) Regulation 123 (1)(c) applies as modified by this section.*
- (2) The educator to child ratio for children aged 36 months or more but less than 6 years of age is 1 educator to 10 children”*

78. In this case, the following table summarises the number of children and the required staffing numbers.

Age of children	Number of children per age category	Staff levels required/proposed
0 - 24 months	16	1 educator per 4 children 4 required
24 - 36 months	20	1 educator per 5 children 4 required
36 months +	20	1 educator per 10 children 2 required
Total	56	10 required (10 provided)

79. Notwithstanding the above assessment, a service approval from the regulatory authority is required prior to operation of any child care facility.
80. Following a detailed assessment against Part 3 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) and the applicable Child Care Planning Guidelines, the proposal is considered to generally satisfy the relevant requirements with the exception of the adverse impacts upon the traffic and parking within the street and surrounding streets during peak times being the drop off and pick up times.

### Hurstville Local Environmental Plan 2012

81. The subject site is zoned R2 Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012. Refer to zoning map below. The proposed development is for a centre based child care facility which is a permissible land use in the zone.



**Figure 9:** Zoning Map under HLEP 2012 – subject site is shown outlined in black

82. The objectives of the zone are as follows:
  - *To provide for the housing needs of the community within a low density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.*
  - *To ensure that a high level of residential amenity is achieved and maintained.*
  - *To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.*
  - *To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.*

83. The proposed development is a permissible land use within the zone. Whilst the objectives of the zone seek to provide facilities or services to meet the day to day needs of the residents, the potential traffic and parking implications due to the narrow road width for a use that will generate increased traffic and parking within the morning and afternoon peak times when traffic is at its highest, will have an adverse impact upon the street network.
84. The extent to which the proposed development complies with the Hurstville Local Environmental Plan 2012 (HLEP 2012) is outlined in the table below.

**Hurstville Local Environmental Plan Compliance Table**

Clause	Standard	Proposed	Complies
<b>Part 1 Preliminary</b>			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is inconsistent with the aims of the plan.	No
1.4 – Definitions	The proposed development is a Centre based child care facility.	The proposed development is consistent with the definition (see below).	Yes
<p><b>Centre based child care facility means:</b>  <i>(a) a building or place used for the education and care of children that provides any one or more of the following—</i></p> <p><i>(i) long day care,</i>  <i>(ii) occasional child care,</i>  <i>(iii) out-of-school-hours care (including vacation care),</i>  <i>(iv) preschool care, or</i>  <i>(b) an approved family day care venue (within the meaning of the <a href="#">Children (Education and Care Services) National Law (NSW)</a>),</i></p> <p><b>Note—</b>  <i>An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the <a href="#">Children (Education and Care Services) National Law (NSW)</a>) is provided.</i></p> <p><i>but does not include—</i></p> <p><i>(c) a building or place used for home-based child care or school-based child care, or</i>  <i>(d) an office of a family day care service (within the meanings of the <a href="#">Children (Education and Care Services) National Law (NSW)</a>), or</i>  <i>(e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or</i>  <i>(f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or</i>  <i>(g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or</i>  <i>(h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.</i></p>			

<b>Part 2 Permitted or prohibited development</b>			
2.3 - Zone objectives and Land Use Table	Meets objectives of R2- Low Density Residential Zone:  Development must be permissible with consent	The proposed development will have an adverse impact upon the locality.  The land is zoned for this use.	No
2.7 Demolition	Demolition requires development consent.	The proposal seeks demolition of existing structures as part of the application.	Yes
<b>Part 4 Principal development standards</b>			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.32m	Yes
4.4 – Floor space ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map 0.6:1  Site area: 980.1sqm Maximum 588.06sqm	The proposed development has a total GFA of 409sqm (0.417:1)	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Clause 4.5	The floor space of the child care facility has been calculated in accordance with Clause 4.5 and the “gross floor area” definition within the Hurstville Local Environmental Plan 2012.	Yes
4.6 – Exceptions to development standards	(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	No Clause 4.6 required.	N/A
<b>Part 5 Miscellaneous provisions</b>			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item the site is not in a heritage conservation area.	Yes
5.11 – Bush	Bush fire hazard	The subject land is not within a	N/A

Fire Hazard Reduction	reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	bush fire prone area.	
5.21 Flood Planning	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>	The subject site has not been identified/mapped as being flood affected.	Yes
<b>Part 6 Additional local provisions</b>			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Noted.	Yes
6.1 (2)	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class	Subject site is not affected by Acid Sulfate Soils.	Yes

	specified for those works.		
6.2 – Riparian land and watercourses	(2) This clause applies to land identified as “Sensitive Land” on the Riparian Lands and Watercourses Map.	N/A Not identified as sensitive land on the riparian lands and watercourses map.	N/A
6.3 Limited development on foreshore area	(2) Development consent must not be granted for development on land in the foreshore area except for the following purposes—  (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, (c) boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).	N/A not located in a Foreshore area.	N/A
6.4 Foreshore scenic protection area	(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.	N/A not located in a FSPA area.	N/A
6.7 Essential Services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the		



	development are available or that adequate arrangements have been made to make them available when required—		
	(a) the supply of water,	Water and electricity supply is available to the site.	Yes
	(b) the supply of electricity,		
	(c) the disposal and management of sewage,	Sewage available to the site.	Yes
	(e) stormwater drainage or on-site conservation,	A stormwater connection is available however the proposed stormwater disposal is currently unsatisfactory.	No
	(f) suitable road and vehicular access.	The site intends to provide vehicular access from Bailey Parade. Concern has been raised with the safety aspects of the exit ramp.	Yes

### Development Control Plans

#### Hurstville Development Control Plan No 1.

85. The proposal has been assessed under the relevant sections of the Hurstville Development Control Plan No 1 as follows.

The proposed development is subject to the provisions of the Hurstville Development Control Plan No 1. The following comments are made with respect to the proposal satisfying the objectives and controls contained within Hurstville DCP

Development	Requirements	Proposed	Complies
<b>3.0 General Planning Considerations</b>			
<b>3.1 Vehicle Access Parking and Manoeuvring</b>			
<b>DS1.1</b>	In determining the prescriptive parking requirements for each type of land use, Council has been informed by a range of technical studies and documents, including detailed review of carparking rates in business and industrial zoned land and the Roads and Traffic Authority Guide to Traffic Generating Developments, October 2002. However, Council uses these prescriptive parking requirements on a	A traffic and parking assessment report was submitted with the DA application. Parking has been provided to be numerically compliant with the relevant controls.	Yes

	discretionary basis only, and may be flexible in establishing parking conditions according to expert reports on the existing parking and traffic conditions in the vicinity of the subject site.		
<b>Discussion on Traffic and parking</b> The Traffic and parking assessment report was considered by Council's Traffic Engineer in conjunction with this proposal. Whilst the parking provided is numerically compliant with the controls, the gradient of the exit ramp is unsatisfactory.			
<b>DS1.2</b>	In calculating the number of car spaces required, Council takes into consideration: a. the type of development (or land use) proposed b. the size and scale of the development c. the intensity of the development d. street hierarchy and existing traffic situation	Noted.	Yes
<b>DS1.3</b>	Table 1 and Table 2 provide on-site parking requirements for each specific land use. Where parking calculations produce a fraction, the requirement is rounded up e.g. 3.2 spaces = 4 spaces. Note: Parking requirements may also be contained in area specific DCPs.  Refer to the Child Care Centres Section of this DCP for car parking requirements	N/A	N/A see Part 5 – Child Care Section of DCP
<b>Layout, Circulation, Access and Egress</b>			
<b>DS1.5</b>	Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities.	Parking facilities within the basement have been found to be satisfactory. The exit ramp is however non-compliant.	Yes
<b>DS1.6</b>	Council does not encourage, but may consider stacked parking for parking spaces in a controlled parking situation which: a. allows no more than two	Stacked parking has been provided and has been supported by Council's Traffic Engineer.	Yes

	cars in the stacked parking arrangement; b. is likely to maintain a very low turnover; or c. is able to function easily within the management of the site's future operation.		
<b>Ramps, Transitions &amp; Driveways</b>			
<b>D1.9</b>	Alignment levels for all points of vehicular access must be obtained prior to submission of a development application. These levels will be made available by Council's Engineering Department following the payment of the appropriate fee. Note: Ramp grades are to be designed in accordance with AS/NZS 2890.2 2004 Part 2.	The exit ramp grade is unsatisfactory.	No
<b>D1.10</b>	The AS/NZS 2890.1 2004 Ground Clearance Template is to be used as follows: a. prepare a longitudinal section of the grade change or irregularity to natural scale, and to the same scale as the template – scale to be 1:20	Noted.	Noted
<b>Underground/Basement Parking Areas</b>			
<b>DS1.11</b>	Underground parking areas are to be concentrated under building footprints so as to maximise deep soil landscaping	Generally acceptable.	Yes
<b>DS1.12</b>	Driveways to underground car parks are to be designed so as to minimise the visual impact on the street, and to maximise pedestrian safety. Pedestrian access to the development should be separate and clearly defined	The ramp grades for the exit ramp are unsatisfactory.	No
<b>DS1.14</b>	Basement car parking is preferable in commercial and residential flat buildings.	Basement parking provided.	Yes
<b>DS1.15</b>	All underground parking areas are to have security doors. Where mechanical ventilation is proposed the motor room and exhaust shafts are to be shown on the development application plans	Roller doors are shown on the plans for both driveways	Yes

<b>Parking for People with a Disability</b>			
<b>DS1.16</b>	Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.	Complies, with the exception of the exit driveway.	Yes
<b>Section 94</b>			
<b>DS1.18</b>	Council may consider accepting a cash contribution in lieu of on-site parking where a Section 94 Plan is in place. This applies to retail and commercial developments. The contribution is payable under Section 94 - developer contributions, of the Environmental Planning and Assessment Act 1979. Note: Contact Council to see whether the Hurstville Section 94 Contributions Plan 2012 applies to your development and determine any applicable charges. A copy of this plan can be downloaded from <a href="http://www.georgesriver.nsw.gov.au">www.georgesriver.nsw.gov.au</a> .	N/A	N/A
<b>Environmental Design</b>			
<b>DS2.1</b>	Proposals for parking areas are to be accompanied by a landscape plan, prepared by a qualified landscape architect or designer, illustrating means to soften the visual impact of parked cars and any associated structures, as per these landscaping controls	A landscape plan was submitted with the DA which remains unacceptable. Parking is to be provided within the basement.	Yes
<b>Drainage</b>			
<b>DS2.5</b>	All parking areas are to have adequate drainage for runoff and seepage. Council requires that minimum gradients be provided in car parks	Drainage is unsatisfactory and the grade of exit ramp is unsatisfactory.	No
<b>Streetscape</b>			
<b>DS2.8</b>	If a proposed parking area adjoins a residential property Council requires fencing and/or mounding to be included in the landscaping proposal to protect the privacy of the residential property and reduce noise	Basement parking proposed.	Yes

<b>Safer By Design</b>			
<b>DS3.1</b>	On-site parking spaces are to be located in areas visible from nearby habitable windows, entrances, public spaces etc.	N/A Parking is within the basement.	Yes
<b>DS3.2</b>	On-site driveways are to provide an unobstructed view of passing pedestrians and vehicles.	Vision out of the basement exit ramp is non-compliant.	No
<b>Safety</b>			
<b>DS3.3</b>	Sloping ramps from car parks, garages and other communal areas are to have at least one full car length of level driveway before they intersect pavements and carriageways	The exit ramp is unsatisfactory and non-compliant.	No
<b>Security</b>			
<b>DS3.4</b>	Entry to basement car parks, including pedestrian routes, are to be available only to residents through security access/egress routes via main buildings	The northern elevation plan shows a roller door to the eastern entry driveway, whilst Section D2 shows a roller door on the western driveway. No details have been provided on security measures to be employed.	No
<b>DS3.5</b>	Visitor parking shall be provided in open unrestricted areas. If visitor parking is provided within a secure parking area (basement or otherwise) suitable access provisions shall be made such as a security intercom	No details have been provided on security measures to be employed. These details need to be provided within a Plan of Management.	No
<b>Lighting</b>			
<b>DS3.7</b>	The intensity of lighting in the entranceway to covered or underground car parks is to be graded from the most bright (at the entrance proper), to minimum levels of accepted illumination (away from entrances), to allow for the gradual adjustment of driver/pedestrian "light" vision.	Can be conditioned if the application was recommended for approval.	Can be conditioned.

<b>Pedestrians and Car Park Layouts</b>			
<b>DS3.8 (a)</b>	To help minimise the likelihood of conflict when sites have both pedestrian and vehicular access, the following is required: a. parking areas are to be designed so that through traffic is either excluded or appropriately managed	The parking areas have a separate entry and exit ramp. The exit ramp is non-compliant.	Yes
<b>DS3.8 (b)</b>	b. pedestrian entrances/exits are to be separated from the vehicular entrances/exits (parking spaces must not obstruct required exit doors)	Pedestrian and vehicular access and egress points are separate, with adequate separation between them. The pedestrian entrance is centrally located with the vehicular driveways located to the eastern and western sides of the allotment.	Yes
<b>DS3.8 (c)</b>	c. developments generating a significant amount of pedestrian movement throughout the car park (such as shopping centres or office parks) are to establish clear and convenient pedestrian routes. These routes should minimise the number of points which cross vehicle paths and be appropriately marked to heighten driver awareness (e.g. painting, use of contrasting materials, lighting and/or signage).	Pedestrian routes have been shown on the architectural plans.	Yes
<b>3.3 Access and Mobility</b>			
<b>DS1.1</b>	Development is to comply with Table 1 – Assessment Criteria	See below.	
Places of Assembly (including cinemas, churches), Public Buildings (including Council and Government Offices), Health	Access for all persons through the principal entrance and access to appropriate sanitary facilities in accordance with the BCA and relevant Australian Standards	An access compliance report prepared by Vista Access has been provided. The report verifies that the building generally complies with the access requirements and is	Yes

Care Buildings, Educational Establishments, Child-Care Centres.		capable of compliance with specific details to be provided at cc stage such as required signage, linemarking and materials used to confirm slip resistance for surfaces and carpets that meet accessible criteria.	
	One space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces. 2 % of all parking spaces are to be set aside for accessible parking where 50 or more parking spaces are provided, to be designed in accordance with AS 2890.	One accessible space has been provided within the basement with a shared zone.	Yes
<b>3.4 Crime Prevention Through Environmental Design</b>			
Crime Prevention through Design	Ensure that the way in which the site, and the buildings within the site, are laid out enhance security and feelings of safety.	See discussion below	Yes
<u>Discussion on crime prevention</u> The application has been assessed against the provisions of Section 3.4 Crime Prevention through Environmental Design. The development is well designed to ensure all entrances are clearly identifiable and the building allows for good natural surveillance. The proposed landscaping will also maintain sight lines, provides a sense of site ownership and minimise opportunities for vandalism. The design of the proposed development satisfies crime prevention through environmental design principles and is consistent with Section 3.4.			
<b>3.5 Landscaping</b>			
Landscaping	Development contributes to the creation of a distinct, attractive landscape character for streets and neighbourhoods	A landscape plan prepared by Contour Landscape Architecture has been provided and reviewed. Council's Senior Landscape & Arboriculture Assessment Officer will require amendments to the landscape plan should the proposal be supported.	No

<b>3.6 Public Domain</b>			
Public Domain	Development contributes to the creation of attractive, comfortable and safe streets that comprise consistent and high quality paving, street furniture and street tree plantings.	The proposed development will adversely affect the health and viability of the street tree and amendments are required to the design and the landscape plans to satisfy Council. .	No
<b>3.7 Stormwater</b>			
PC1	Stormwater management is provided on site: a. to not increase the existing level of hazard to persons or property b. to ensure rainwater run-off and overland flow is directed into an approved stormwater drainage system c. to reduce and control rainwater run-off in order to minimise overland flows, soil erosion and siltation in streams and water ways. d. to encourage an environmentally sustainable regime of stormwater management that achieves a balance between collecting and re-using rainwater, maintaining acceptable environmental flows in streams and allowing for on-site surface infiltration via landscaping.	The proposed stormwater plans have been reviewed by Council's Drainage Engineer and are considered to be unsatisfactory.	No

Development	Requirements	Proposed	Complies
<b>5.3 Child Care Centres</b>			
<b>(Note: With the exception of building height, side and rear setbacks, and car parking, Council's site area, locational criteria, distance separation, centre capacity, building design, amenity and landscaping controls do not apply as per Clause 26 of SEPP (Educational Establishment and Child Care Facilities) 2017)</b>			
<b>General</b>			
DS1.1	The site: Is 500m <sup>2</sup> or larger	Subject site is 980.1sqm by DP	Yes
	Has a minimum street frontage (as measured for the depth of the parking and manoeuvring area at the front of the building) of: - 18m	Minimum street frontage of 24.99m	Yes



	where a separate entry and exit one way drive-through access is proposed. - 20m where an at grade single vehicular access point to the on-site car parking area is proposed to allow for the provision of two separate pedestrian paths (refer to the Access and Parking requirements contained in this section of the DCP). - 15m for R3 Medium Density Residential areas where parking is provided at basement level.		
	Does not have any property boundary on a State Road.	No property boundary on a state road.	Yes
<b>Locational Criteria</b>			
<b>DS2.1</b>	Child care centres should be located close to or adjacent to community focal points such as local shopping centres, community buildings (libraries, churches, halls etc.), parkland, sports grounds and schools (where there is no major traffic conflict).	Proposed childcare centre is located within close proximity parklands and schools. There are concerns raised with the narrow width of the road and the potential traffic conflicts generated by this use.	No, as the proposal will result in major traffic conflict
<b>DS2.2</b>	Sites less than 500m <sup>2</sup> will not be considered.	Subject site is 980.1sqm by DP.	Complies however this control is overridden by clause 25 (c) of SEPP (Educational Establishments and Child Care Facilities) 2017
<b>DS2.3</b>	Sites will not be considered for a child care centre use unless they have a minimum street frontage (as measured for the depth of the parking and manoeuvring area at the front of the building) of: <ul style="list-style-type: none"> <li>• 18m where a separate entry</li> </ul>	24.99m frontage proposed.	Complies however this control is overridden by clause 25 (c) of SEPP

	<p>and exit one way drive-through access is proposed.</p> <ul style="list-style-type: none"> <li>• 20m where an at grade single vehicular access point to the on-site car parking area is proposed to allow for the provision of two separate pedestrian paths (refer to the Access and Parking requirements contained in this section of the DCP).</li> <li>• 15m in R3 Medium Density Residential areas where parking is provided at basement level. If a proposal will result in an adjoining lot being left isolated, evidence must be submitted of negotiations with the owner and the issue will be considered as part of the assessment</li> </ul>		(Educational Establishments and Child Care Facilities) 2017
<b>DS2.4</b>	Steeply sloping sites will not be considered due to issues relating to access.	The subject site is not steeply sloping.	Yes
<b>DS2.5</b>	Child Care Centres are not permitted on sites with any property boundary to a State Road (as listed under Appendix 1) due to reasons of traffic safety and amenity impacts (including air quality and noise).	The site does not adjoin a state road.	Yes
<b>DS2.6</b>	<p>Approval is unlikely to be given for centres within 300m of the following features, unless the applicant can demonstrate evidence to support a variation to this requirement:</p> <ul style="list-style-type: none"> <li>• telecommunications towers</li> <li>• large over-head power wires</li> <li>• any other area which may reasonably be considered inappropriate if located near a child care centre</li> </ul>	High tension power lines, telecommunications towers or other inappropriate structures or uses are not located within 300m of the site.	Yes
<b>DS2.7</b>	Approval will not be given to a child care centre located closer than 55m to a LPG above ground gas tank or tanker unloading position.	The site is not located near an LPG tank or tanker unloading position.	Yes

<b>DS2.8</b>	An analysis of any existing and/or potential site contamination is required to be submitted with any application for a child care centre.	A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site	Yes
<b>DS2.9</b>	Where sites are, or may be contaminated, a report is to be submitted with the application prepared by a suitably qualified consultant	N/A	N/A
<b>DS2.10</b>	Approval will not be given to Child Care Centres located in cul-de-sacs or closed roads within residential area.	The site is not located within a cul-de-sac or closed road.	Yes
<b>DS2.11</b>	Child Care Centres are not to be located on bushfire or flood prone land, or located adjoining injecting rooms, drug clinics and any other such uses that may be inappropriate next to children	The subject site is not bushfire prone land or flood affected.	Yes
<b>DS2.12</b>	Proposals for Child Care Centres must be accompanied by a Traffic Impact Statement provided by a qualified Traffic or Transport Consultant	Traffic Impact Statement and Report has been submitted with the application.	Yes
<b>Cumulative Impacts from Child Care Centres in Residential Areas</b>			
<b>DS3.1</b>	Only one child care centre is permitted at an intersection.	N/A	This control is overridden by clause 25(a) and 26 of SEPP (Educational Establishments and Child Care Facilities) 2017
<b>DS3.2</b>	Child Care Centres shall not be located on land adjoining any other existing or	N/A the site does not adjoin any other existing or approved	This control is overridden

	approved Child Care Centres	child care centres.	by clause 25(a) and 26 of SEPP (Educational Establishments and Child Care Facilities) 2017
<b>DS3.3</b>	Only 1 Child Care Centre is to be located on each street block. Note: a street block is defined as those properties on both sides of a street between intersections with cross streets	N/A	This control is overridden by clause 25(a) and 26 of SEPP (Educational Establishments and Child Care Facilities) 2017
<b>DS3.4</b>	The cumulative impacts of proposed child care centres within residential areas, especially traffic impacts, are required to be addressed in the statement of environmental effects submitted with the application.	Council's Traffic Engineer has raised concerns with the narrow road width and the potential impacts generated. In addition the exit driveway is non-compliant.	No
<b>Size of Centres and Child Age Groups</b>			
<b>DS5.1</b>	The maximum number of children to be accommodated in a child care centre within Residential zones are as follows: • R2 Low Density Residential: 40 children. Council will consider a variation to the controls under this Clause for Child Care Centres in the R2 zone where the site is located adjacent to a retail/commercial area or other non-residential zoning. • R3 Medium Density Residential: 60 children.	N/A	This control is overridden by clause 26 of SEPP (Educational Establishments and Child Care Facilities) 2017 Refer to the Child Care Planning Guidelines
<b>DS5.3</b>	The minimum number of places for children in the under 2 year old age group is to be the same as the % of under 2 year olds in the 0-5	N/A	This control is overridden by clause 26 of SEPP

	year old population as measured at the most recent census (at the 2011 census this was 35%). Where calculations produce a fraction their requirement is to be rounded to the nearest whole number		(Educational Establishments and Child Care Facilities) 2017. Refer to the Child Care Planning Guidelines
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### Building Form and Appearance

<b>DS6.1</b>	<p>For Residential Zones, the maximum height is:</p> <ul style="list-style-type: none"> <li>• R2 Low Density Residential: One (1) storey. A variation to this control will only be considered where the centre is located adjacent to commercial or other nonresidential zonings and where the proposal complies with the building form objectives.</li> <li>• R3 Medium Density Residential: Two (2) storeys</li> </ul>	The maximum storey control is not considered to be a relevant matter as the LEP height limit has been complied with.	Yes see discussion below This control is overridden by clause 26 of SEPP (Educational Establishments and Child Care Facilities) 2017. Refer to the Child Care Planning Guidelines and the maximum height limit of HLEP 2012.
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#### Discussion on building form

Clause 26 of the of SEPP (Educational Establishments and Child Care Facilities) 2017 states that a provision of a DCP that specifies a requirement standard or control in relation to the matters in Clause 26 does not apply to development for the purpose of a child care facility.

Clause 26 (d) states that

*d)any matter relating to development for the purpose of a centre-based child care facility contained in—*

*(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or  
(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).*

Maximum number of storeys is not a relevant matter for consideration; however the maximum building height is to be complied with. The maximum building height complies with the requirements of HLEP 2012.

Notwithstanding the first floor is setback 4.216m from the eastern boundary with only the kitchen window within this eastern elevation and 10.55m from the western boundary. The first floor only contains staff facilities including a staff room, office, kitchen, sitting room and accessible WC. The proposed building is two storeys, which is a variation to the DCP control however, the building height complies with the 9m height limit and is consistent with the two storey form permitted for a residential dwelling.

<b>DS6.4</b>	Where in a residential zone, front setbacks are as follows: <ul style="list-style-type: none"> <li>• The minimum setback to the primary street frontage is 5.5m in the R2 Low Density Residential zone and 6m in the R3 Medium Density Residential zone (see Section 4.5)</li> <li>• On corner sites, Council will determine the primary frontage and the required front boundary setback will be to that primary frontage. A reduced setback may be allowed to the secondary frontage of not less than 2m</li> </ul>	Front setback External wall – 7.51m Porch 5.8m  N/A not a corner site.	Yes  N/A
<b>DS6.5</b>	Where in a residential zone, side setbacks are as follows: <ul style="list-style-type: none"> <li>• In the R2 Low Density Residential zone: 0.9m</li> <li>• In the R3 Medium Density Residential zone: 0.9m for ground floor level, 1.5m for upper storey</li> </ul>	1.485m east 3.2m west  N/A	Yes Yes  N/A
<b>DS6.6</b>	Where in a residential zone, rear setbacks are as follows: <ul style="list-style-type: none"> <li>• In the R2 Low Density Residential zone: 3m</li> <li>• In the R3 Medium Density Residential zone: 6m</li> </ul>	9.075m rear setback is proposed  N/A	Yes  N/A
<b>DS6.8</b>	When considering the possible impacts on adjoining properties, particular consideration must be given to the location of: <ul style="list-style-type: none"> <li>• Active outdoor play areas.</li> <li>• Classrooms and indoor play areas.</li> <li>• Windows and doors, particularly those associated with indoor play areas.</li> </ul>	The design is generally in accordance with the SEPP (Educational Establishments and Child Care Facilities) 2017 and the Child Care Planning Guidelines.	Yes



	<ul style="list-style-type: none"> <li>• Verandahs.</li> <li>• Points of entry.</li> <li>• Pick-up and drop-off points; and</li> <li>• Any plant equipment which may be required within the context of the centre.</li> </ul>		
<b>DS6.9</b>	Openings such as windows and doors should not correspond with existing openings on adjoining properties. Particular consideration should be given to living areas of adjoining dwelling houses when selecting the location of classrooms and playgrounds	Generally acceptable.	Yes
<b>DS6.10</b>	Appropriate building orientation and good design will ideally eliminate the need for privacy screens. Privacy screens will be considered where it is deemed to be in the public interest and where they complement the overall appearance of the building.	The location of the building has taken into consideration the amenity of neighbouring properties in terms of privacy.	Yes
<b>DS6.11</b>	The impacts of privacy and overshadowing on adjoining properties must be considered. Proposals should comply with Visual Privacy and acoustic amenity contained in this section of the DCP	Privacy and overshadowing has been addressed in the design and location of the building. An acoustic report has been submitted with the application to minimise acoustic impacts.	Yes
<b>DS6.12</b>	The design of buildings should minimise the overshadowing of neighbouring private open spaces and/or windows to habitable rooms	Complies.	Yes
<b>DS6.13</b>	Where a new building is being constructed for a child care centre or alterations and additions are proposed, the building must not unreasonably obscure sunlight to the windows of habitable rooms, solar collectors or rear yards of	3 hours of sunlight is provided to adjoining POS between 9am and 3pm.	Yes

	adjoining properties. Design should allow at least 3 hours of sunlight between 9am and 3pm midwinter (21 June) to adjoining private open space		
<b>DS6.14</b>	Where a new building is being constructed for a child care centre or alterations and additions proposed which are greater than single story, shadow diagrams must be prepared and submitted showing the impact of a proposal on adjoining sites. Shadow diagrams need to illustrate the shadows cast at 9am, 12 noon and 3pm on 21 June, with particular emphasis on the impact on adjoining habitable rooms. Such diagrams must be prepared by an architect or surveyor and be based on an accurate survey of the site and adjoining development.	Shadow diagrams have been submitted with the application.	Yes
<b>DS6.16</b>	Each application must outline a brief assessment of streetscape and the design principles used to improve the existing streetscape. New construction work must have appropriate regard to building form, proportions of openings, roof form, setbacks and height	The development in its current form results in adverse impacts associated with traffic, drainage, safety and trees.	No
<b>DS6.17</b>	The design of the centre must allow for strong visual links between indoor and outdoor spaces. Windows and fixtures are to be provided at a scale appropriate to children. Full-length glass, with safety glass below 1000mm is encouraged particularly where play areas or gardens are located outside these windows	The proposed building has been designed to achieve strong visual links between the indoor and outdoor spaces.	Yes
<b>Access and Parking</b>			
<b>DS7.1</b>	Staff parking is provided at a rate of 1 space for every 2 staff members on site at any one time. On-site staff	12 staff – 6 spaces required. Note: The 12 staff include 10 staff	Yes

	parking spaces are to be clearly marked and sign posted.	required based on child ratios and 2 support staff. 6 spaces provided.	
<b>DS7.2</b>	<p>Parents parking is provided as follows:</p> <ul style="list-style-type: none"> <li>For proposals where no drive-through is provided (ie those involving single access driveways), 1 space per 10 children in the child care centre, as short-term drop off and pick up (to be used for a period of no more than 15 minutes by one vehicle).</li> </ul>	<p>The original scheme had a single driveway, which based on 56 children required 6 spaces. The scheme was amended and a separate one way entry and a separate exit driveway was proposed. See discussion below.</p>	Yes
	<ul style="list-style-type: none"> <li>For proposals where a separate entry and exit one way drive-through access is provided, 1 space per 15 children in the child care centre, as short term drop off and pick up (to be used for a period of no more than 15 minutes by one vehicle) Note: Stacked parking arrangements will be permitted where no more than 2 vehicles are involved in total. For example, an arrangement of 3 sets of 2 stacked car is permitted.</li> </ul>	Based on 56 children, four (4) spaces are required. Six (6) spaces are proposed.	Yes
<b>DS7.3</b>	<p>In special circumstances, Council may consider approving an application where pick-up and drop-off is not provided on the site, but only where it is satisfied that:</p> <ul style="list-style-type: none"> <li>An alternative arrangement is available within the road reserve or on adjoining land; or traffic and parking in the street is such that on-site pick-up and drop-off is not necessary; and it is in the public interest to do so;</li> <li>The subject site and general residential amenity is enhanced by doing so;</li> <li>All aspects of pedestrian</li> </ul>	N/A parking provided in accordance with the DCP.	N/A

	safety have been satisfactorily dealt with; • Car entry and exit from the car parking site is preferred from two separate points to allow for a steady flow of traffic.		
<b>DS7.4</b>	The car park must be sited so as to minimise wastage of space, eg. Turning circles	Sited accordingly.	Yes
<b>DS7.5</b>	Parking patterns must allow for vehicles to be driven in a forward direction when entering and leaving the premises.	Vehicles can enter and exit in a forward direction, noting the exit driveway is non-compliant.	Yes
<b>DS7.6</b>	Provision must be made for bike racks. Where parking is provided at a rate less than 1 space for every staff member, bike racks are to be provided to complement parking spaces.	Provision has been made for bicycles.	Yes
<b>DS7.8</b>	Landscaping and paving design associated with driveways must achieve the following: • a high level of pedestrian safety and visibility; • a level, hard surfaced, non-slip passage from vehicles to the main entry point; • satisfactory manoeuvrability for persons with disabilities and/or prams; and • clear delineation between the driveway and yard areas	Landscaping in this regard is currently not acceptable, a new landscape plan will be required to be submitted and will need to be reviewed again.	Yes
<b>DS7.12</b>	Council will give due consideration to the impacts of the development on traffic and safety.	Concern has been raised with safety in relation to the exit from the basement.	No
<b>DS7.14</b>	A 1m wide landscaped area is required to be provided along the front setback (excludes driveways and pedestrian paths.)	Provided.	Yes
<b>DS7.15</b>	Access for persons with disabilities and limited mobility must be provided to the main entrance of the child care centre from the street alignment at a gradient of, no more than 1:14.	Access has been provided.	Yes

<b>DS7.16</b>	Where topography permits, 1 metre wide access ramps at a gradient of no more than 1:14 must be provided to playground areas. Large ramps across playground areas to achieve this access will not be permitted.	Playground areas comply.	Yes
<b>Landscaping</b>			
<b>DS8.1</b>	A 1m wide landscaped area is required to be provided along the frontage of the site (excludes driveways and pedestrian paths)	Provided.	Yes
<b>DS8.2</b>	For centres in the R2 Low Density Residential and R3 Medium Density Residential zones, any land within the site that is not required for car parking or other purposes is to be landscaped area.	Generally acceptable.	Yes
<b>DS8.3</b>	Screen planting is to be provided along the side boundaries.	Some planting has been provided along the side boundaries, although there does not appear to be adequate soil depth and area for the planting along the western boundary.	No
<b>DS8.4</b>	Clause 5.9 Tree Management and Preservation of Hurstville LEP 2012 applies. Council's Tree Management Officer will provide comments in relation to any significant tree on the site and these comments will be considered in the assessment of the application	Council's Landscape Officer has provided comments on the proposal. No objection to trees on the subject site. The street tree impacts remain unresolved.	Yes
<b>DS8.5</b>	Tree retention and new planting must take into account: <ul style="list-style-type: none"> <li>• Complementing the built environment.</li> <li>• Effect on solar access, shading, wind deflection and temperature moderation.</li> <li>• Reduction of soil erosion.</li> <li>• Definition of play zones; and</li> <li>• Incorporation as play or educational features</li> </ul>	The proposed development adversely impacts the street trees in Bailey Parade.	No

<b>DS8.7</b>	The play space must be capable of rapid clearance of surface water. Conceptual drainage plans are to be outlined at the Development Application stage, however, detailed requirements will be requested with the Construction Certificate	The drainage design is not acceptable. This will need to be addressed with a new drainage plan and a revised design.	No
<b>DS8.8</b>	Where on-site detention is required, exposed drains must be suitably covered to ensure that children cannot gain access to the drain.	Drains are suitably covered.	Yes
<b>Design and Spatial Requirements</b>			
<ul style="list-style-type: none"> <li>• Provide Indoor and outdoor areas which allow for play</li> <li>• Ensure Child Care centres are safe and secure.</li> </ul>			
<b>DS9.1</b>	Positively contribute to the physical, sensory, intellectual, creative and emotional development of each child	Generally acceptable.	Yes
<b>DS9.2</b>	Suitably integrate with indoor play areas, allowing for attractive indoor and outdoor spaces	Generally acceptable.	Yes
<b>DS9.7</b>	Entry/Exit points within the centre must be legible and appropriately located. Particular consideration is to be given to child security, with one secure entry/exit point which is to incorporate a transitional space	Generally acceptable.	Yes
<b>Hours of Operation</b>			
<b>DS11.2</b>	For all new Child Care Centres and existing Child Care Centres in residential zones with an 18m or greater frontage (as measured for the depth of the parking and manoeuvring area of the front of the building) and separate one-way drive-through vehicular access points, the approved or licensed operating hours of a child care centre must not extend outside the core hours of 7am to 6:30pm.	The applicant is seeking hours between 6.30am and 6.30pm.	No, however should approval be granted it will be conditioned to be within the core hours as detailed in the child care Planning Guidelines.
<b>DS11.3</b>	Extensions to these core hours will be considered on merit where a centre is	N/A the site is not located in a neighbourhood	N/A

	proposed in a Neighbourhood Centre or Local Centre zone	centre or Local Centre.	
<b>Visual Privacy and Acoustic Amenity</b>			
<b>DS12.1</b>	Provide screenings by trees, fencing and window coverings to minimise noise and overlooking impacts to adjoining properties.	Acoustic fencing barriers and tree planting is also proposed adjacent to the southern and western boundaries.	Yes
<b>DS12.2</b>	Locate any play equipment at least 3m from any boundary with a residential property.	Play equipment located adjacent to eastern and southern boundaries.	No
<b>DS12.3</b>	<p>For traffic noise, the following criteria are recommended (measured as the maximum L10 (1 hour):</p> <ul style="list-style-type: none"> <li>• Indoor noise levels must not exceed 48dB(A); and</li> <li>• Outdoor noise levels should not generally exceed a range of 55-60 dB(A) when measured at 1.5m above the ground level in the centre of any outdoor play area.</li> </ul> <p>Note: Noise readings (measured at any point on the boundary of the site between the proposed Child Care centre and adjoining property), should not exceed 10dBA above the background noise level during the hours of operation of the Centre. The noise readings are to be measured over a 15-minute period and are to be undertaken in accordance with the requirements of the NSW Department of Environment and Climate Change. No “offensive noise” as defined within the provisions of the Protection of the Environment Operations Act 1997, shall be emitted from the premises as a result of the use of activities associated with the site.</p>	An acoustic report has been submitted with the application and reviewed by Council’s Environmental Health Officer and found to be acceptable subject to conditions should the application be supported.	Yes
<b>DS12.4</b>	Council requires a suitably qualified acoustic consultant	An acoustic report has been submitted	Yes



	to undertake an acoustic assessment, which is to include recommended noise attenuation measures.	with application. Conditions to be imposed if the application was to be supported.	
<b>DS12.6</b>	Colour bond fencing will only be considered by Council where there is adequate justification that noise issues are addressed including submission of an acoustic report prepared by a suitably qualified person.	An acoustic report requires the provision of acoustic fences and permits the use of colourbond.	Yes

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### Developer Contributions

86. The application is recommended for refusal, as a result contributions have not been levied.

### Impacts

#### **Natural Environment**

87. The proposed development in its current form will result in an adverse impact on the retention of the 2 x *Lophostemon confertus* street trees located at the front of the site within Bailey Parade.
88. A landscape plan prepared by a qualified landscape architect has been prepared for the development, however amended plans would be required to be submitted, should the application proceed to be determined by way of approval.

#### **Built Environment**

89. The proposal represents an unacceptable planning outcome for the site as the proposal fails to provide a built form that will provide suitable drainage and ensures the protection of the existing street trees.

#### **Social Impact**

90. The assessment demonstrates that the proposal in its current form will have an adverse impact upon traffic and street parking within the locality. Adverse social impacts have been identified as part of the assessment as a result of the traffic impacts generated by the development.
91. A Plan of Management has not been provided with the application to ensure that suitable measures are put in place to maintain the amenity within the neighbourhood. A Plan of Management needs to be prepared forming part of the conditions to be complied with as part of the development consent should approval be granted.

#### **Economic Impact**

92. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the proposed dwelling housing development. The proposal is not considered to result in an unreasonable material economic impact.

### ***Suitability of the Site***

93. The site is zoned R2 Low Density Residential, a childcare facility is a permissible use in the zone. Although the site permits this form of development, the proposed development, in particular the drainage and driveway results in adverse impacts on the street trees within Bailey Parade within the frontage of the site.
94. In addition, it is considered the proposed gradients of 12.5% and 17.5% for the first 6m inside the property for the driveway on the western side of the allotment, do not afford drivers exiting the site an adequate sighting of pedestrians within the footpath area.
95. Concern has also been raised that a childcare facility as proposed on a road with a narrow, 7.5m carriageway and in close proximity to the Peakhurst Public School where traffic movements in Bailey Parade and other streets close by increase significantly during school drop off and pick up times to be unsatisfactory on traffic safety grounds.
96. The development in its current form is considered to be unsuitable for the above mentioned reasons.

### **Submissions, Referrals and the Public Interest**

#### **Submissions**

97. The application was advertised for a period of fourteen days between 9 June and 24 June 2021 in accordance with the Hurstville Development Control Plan and the Georges River Council Community Engagement Strategy notification criteria.
98. Amended plans were submitted and the application was readvertised for a period of fourteen days between 18 August and 1 September 2022 in accordance with the Hurstville Development Control Plan and the Georges River Council Community Engagement Strategy notification criteria.
99. A total of 87 submissions were received throughout the two (2) notification periods.
100. The concerns raised are summarised below:
  - **Traffic issues, increased congestion and conflicts generated.**
  - 101. Comment: Increased traffic congestion and reduced parking around the development site and other connecting roads are raised as concerns by residents within the Peakhurst area. It is inevitable that the proposal will increase traffic volume especially within the drop off and pick up times for children. The proposal complies with the carparking required for the development under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. It should also be noted that under the SEPP Council cannot refuse an application where the proposal meets the requirements of the SEPP. It is noted that Councils Traffic Engineer has raised the narrow road width as a concern and the conflicts generated and this is one of the reasons for the recommendation of refusal.
  - **Overshadowing**
  - 102. Comment: The shadow diagrams submitted indicate that compliance with the minimum requirements will be achieved.
  - **Concern has been raised with the potential noise that would be generated by the children from the child care centre.**

103. Comment: An acoustic report has been submitted with the application which has been reviewed by Council's Environmental Health Officer, and they have provided draft conditions should the application be approved. The application is however being recommended for refusal.
- **Concern has been raised that there are too many child care centres located within close proximity to the proposed child care centre.**
104. Comment: The non-discretionary development standards contained within the SEPP (Educational Establishments and Child Care Facilities) 2017 permit a child care centre to be located at any distance from an existing or proposed early education and care facility.
- **Concern has been raised with the proposed hours of operation which are outside those hours.**
105. Comment: The application has been recommended for refusal. **If the application was to be supported the hours of operation will be conditioned to comply.**
- **Concern has been raised that the proposed use will generate odour from food scraps and nappies.**
106. Comment: The waste bins are located within the basement carpark and will be collected from the basement in accordance with Council requirements. The waste generated is the same type of waste generated by residential properties. Given the waste bins are located within a closed room within the basement it is not expected that an unreasonable odour will have an adverse impact upon properties within the street.
- **Concern has been raised in relation to the impacts of outdoor lighting from the development.**
107. Comment: The application is being recommended for refusal. Should the application be approved, the location of outdoor lighting would be further reviewed, and conditions of development consent would be imposed in relation to the outdoor lighting.

## Referrals

### Council Referrals

#### Development Engineer

108. The drainage plans have been amended on several occasions to address the concerns raised by Council's Senior Drainage Engineer. To date these concerns have not been satisfactorily addressed. Council's Senior Drainage Engineer made the following comments on the most recent drainage plans submitted:

*"Further review of the submitted drainage disposal plan, please find following key issue must be addressed so as to enable Council to continue proper assessment.*

- *Upon looking through street view below and the twin rectangular hollow section (RHS) site outlet proposal, the RHS across the nature strip will be exposed whilst the current layback nature of the footpath paving precludes this. The proposed site drainage outlet runs through the layback of 29 Bailey Street where layback existing levels have not been considered in preparing site outlet plan and is unacceptable as it will impact upon existing driveway, footpath and nature strip area (refer to street frontage snapshot below).*

- *Submit site outlet RHS plan & longitudinal section showing nature strip/footpath levels, twin RHS invert/obvert designed levels at a minimum 1% grade including existing nature strip levels prepared by a Registered Surveyor. This sectional information is required for Council to confirm that RHS alignment leading to kerb & gutter connection, fronting layback of 29 Bailey Parade must have 80mm clear cover from top of concrete footpath.*
  - a) *The applicant must note that Council cannot approve exposed site outlet RHS layout alignment or any insufficient design cover for serviceability performance within Council's nature strip areas.*
  - b) *It is required to submit clear site outlet design information which is achievable to support the stormwater design*
  - c) *A public utility services search is required particularly those may encroach the RHS outlet.*
- *Alternatively, any proposed reconstruction or alteration plan of the front nature strip/concrete pedestrian footpath shall be submitted and to be assessed by Council's Asset and Infrastructure Unit prior to approval of final drainage plan. Other option available is the extension of Council's pipeline along Bailey Parade."*

#### Environmental Health Officer

109. The proposed development and the acoustic report has been reviewed by Council's Environmental Health Officer. No objection raised subject to suitable conditions of development consent if the application was to be supported.

#### Senior Landscape & Arboriculture Assessment Officer

110. The proposal was referred to Council's Senior Landscape & Arboriculture Assessment Officer for comment. The street trees are the responsibility of Council's Team Leader Tree Maintenance, who has advised they do not support the proposal in its current form. There are 2 x *Lophostemon confertus* street trees that the applicant has previously been advised to retain as a priority due to the fact they are part of an existing avenue of the same species and maturity and in good condition. Removal and replacement would cause disruption to the tree avenue that creates a desirable streetscape and softens the built environment. The plans indicate retention and the AIA supplied supports this, however Council's Engineer has advised that the proposed SW connection to the street cannot be run as shown on the amended plans and will need to go through the SRZ for the street tree on the eastern side.
111. The root mapping report indicates several structural tree roots at 200mm depth located between the proposed eastern driveway and the tree and as such, the proposed eastern driveway and any proposed SW services will be required to be constructed so as not to interfere with structural tree roots with a maximum excavation depth of 150mm. Council's Engineer has advised that 100mm RHS would need 100mm soil coverage and this would mean the location of the RHS is unachievable.
112. In relation to the street tree located on the western side, it is recommended that the driveway arrangement be realigned to allow an increased setback.
113. In relation to the landscape plan, amended plans would be required to be submitted, should the application proceed to be determined by way of approval. The following changes would be required:

- *The proposed soil depths above the OSD tanks are suitable only for lawn or ground covers. As such the landscape plan will require amendment to relocate the trees and shrubs outside of this zone and allow sufficient space for tree root development and/or provision of root barrier.*
- *The proposed tree planting to the western boundary does not appear to be viable due to limited soil volume available within the site caused by the basement car park and SW services. Tree planting is encouraged, and as such it is recommended that the applicant review soil volumes requirements (as a guide, the ADG Part 4, indicates a minimum volume of 9m<sup>3</sup> per tree (to allow growth up to 8 metres in height). These trees may need to be provided within raised planters to achieve adequate volume.*
- *Automatic irrigation and appropriate drainage will be required for all garden areas and these will need to be specified on the landscape plan.*

#### Traffic Engineer

114. The proposal was referred to Council's Traffic Engineer who raised concerns with the proposal in terms of vehicular access and egress and internal exit and exit ramps.
115. The childcare center as proposed on a road with a narrow, 7.5m carriageway and in close proximity to the Peakhurst Public School where traffic movements in Bailey Parade and other streets close by increase significantly during school drop off and pick up times to be unsatisfactory on traffic safety grounds for the following reasons:
- The Bailey Parade carriageway width of 7.5m when vehicles are parked both sides result in a travel lane width of approximately 3.5m which does not allow for the free flow of two-way traffic. Vehicles cannot pass one another in the 3.5m wide lane without one vehicle pulling over and waiting closer to the kerb. The increase in vehicle movements associated with the centre in the busy morning drop off time in Bailey Parade will increase traffic congestion and conflict between drivers.*
  - Drivers exiting the site will have a poor sighting of vehicles approaching on Bailey Parade from both the east and the west when vehicles are parked kerbside at driveway wings increasing the risk of a crash occurring. The front portion of an exiting vehicle will need to encroach into the 3.5m travel lane before the driver of the vehicle has adequate sighting of approaching vehicles. A crash involving such movements (R.U.M. 10 crash) is likely to be severe.*
  - Drivers exiting the site will need to travel in the centre of the roadway and be head on to other vehicles until one can pull over closer to the kerb. This may result in a vehicle having to be reversed back up the centre's driveway to allow the other to pass.*
  - The narrow carriageway does not allow for the safe opening of car doors on the vehicle's driver's side. Taking a child from or placing it into a vehicle from the roadway is unsafe. There is insufficient room for a moving vehicle to pass a parked vehicle when the car door is open into the travel lane.*
  - The narrow carriageway decreases safety for children crossing the roadway when walking to and from cars parked on the opposite, northern side of the street. A child stepping out onto the roadway beyond the line of the parked vehicles is very close to cars passing in both directions on Bailey Parade. There is very little room for the passing vehicle to move if need be to avoid hitting a child without impacting parked vehicles.*
  - For a driver exiting the site to have an adequate sighting of vehicles approaching from the east or west and to comply with stopping sight distances would require a significant loss of on street parking spaces on the southern side of the roadway.*

### Vehicular access

116. The “Swept Path Testing” analysis contained in Annexure “B” of the supplementary traffic report prepared by McLaren Traffic Engineering dated 20 July 2022 is unsatisfactory. Bailey Parade has a narrow, 7.5m wide carriageway and at those times when vehicles are parked on both sides of the roadway outside the site and close to the wings of the proposed driveways, vehicles will not be able to execute the swept wheel paths as shown.
117. To carry out the swept paths as shown requires parked vehicles to be clear of the driveways either by installing on street parking restrictions or increasing the width of driveway laybacks. Both will result in the loss of some on street parking spaces.

### Internal Exit ramp

118. **Exit Ramp - Section D2:** The ramp is considered unsatisfactory regarding the gradients and gradient changes in the vicinity of the Bailey Parade property boundary.
119. **Firstly**, a total gradient change of approximately 21.5%, that is, an up gradient of 9% across the footpath and a down gradient of 12.5% at the property boundary is likely to result in the underside of the B85 Australian Standard Design vehicle scraping its underside at the boundary.
120. Gradient changes of approximately 13% to 14% are generally considered the maximum before scraping might occur. An 11% rise across the footpath may also result in a vehicle scraping its tail area on the roadway when entering as well as scraping its front undercarriage when exiting. Profiles for the B85 design vehicle crossing the footpath have not been included with documents to confirm clearances to the road carriageway or the property boundary.
121. **Secondly**, it is considered the proposed gradients of 12.5% and 17.5% for the first 6m inside the property do not afford drivers exiting the site an adequate sighting of pedestrians on the footpath area. Drivers will not have a full sighting of the footpath area until very close to the property boundary and is considered unsafe particularly for a childcare centre and with primary school aged children walking past the site when travelling to and from the nearby Peakhurst Public School.
122. It is considered the ramp gradient should comply with the Council requirement that it not exceed 5% (up or down) for the first 6m inside the property. The 5% gradient requirement on the ramp cannot be achieved without significant changes being made to (raising of) the level of the basement floor.
123. **Thirdly**, it is considered unsafe for drivers to be accelerating a vehicle from the basement all the way to the property boundary. A gradient of 5% for the 6m inside the property boundary would improve overall safety.

### Discussion on narrow road width

124. The width of a road carriageway in a residential street to meet current standards to provide parking on both sides and free flow of two way traffic is 10.2m. A 10.2m wide carriageway provides for 2 x 2.1m wide parking lanes and 2 x 3m wide travel lanes.

125. This width also provides improved safety for all road users when doors on the driver's side of vehicles are opened into the moving traffic lanes. Many of the streets in the Georges River Council area and in neighbouring Council areas constructed in the early part of the 1900's were constructed with carriageway widths of 12.1m (42 feet), the standard at that time.
126. Some streets in the Council area, including Bailey Parade, were constructed with narrower carriageway widths in the range of 7m-8m. These widths would have been considered by the road authority at the time of subdivision, in this instance in the 1930's, to be appropriate having regard to the length of the roadway, traffic volumes and land zoning etc. Some of these streets with the year-on-year increase in traffic volumes and land rezonings to higher densities are no longer fit for purpose at certain times of the day.
127. Bailey Parade with:
- (i) parking on both sides
  - (ii) having a travel lane width of only some 3.7m, that being well below the 6m width to cater for two way traffic movements;
  - (iii) having very limited passing opportunities with those being the gaps only between parked cars at residential driveways
  - (iv) it being in close proximity to and used by those dropping off/picking up children from the nearby Peakhurst Public School,
128. results in significant traffic congestion; increased difficulty for residents to gain access to and from their properties and a reduction in safety for pedestrians, particularly school children.
129. Having regard to the above, the application for a long day care centre is not supported on traffic and parking grounds.

#### Coordinator of Environment Sustainability and Waste

130. The application was referred to Council's Coordinator of Environment Sustainability and Waste for assessment and review. They have advised that the proposed arrangements for ongoing waste management are acceptable and have provided conditions of development consent.

#### **External Referrals**

##### Ausgrid

131. The application was referred to Ausgrid. A response was received on 2 June 2021 raising no objections to the proposal.

#### **Conclusion**

132. The proposal seeks consent for demolition of existing structures and the construction of a two storey 56 place childcare centre with basement parking for 12 vehicles, 6 bicycle spaces, landscaping and site works at Lot 97 in DP 16980 being 31 Bailey Parade, Peakhurst and Lot 96 DP 16980 known as 33 Bailey Parade, Peakhurst.
133. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposal is considered to be an unacceptable planning and design outcome for this site given the concerns raised with providing adequate drainage, pedestrian safety, traffic congestion, parking conflicts and the impacts upon the street tree. These issues will have an adverse impact within the immediate locality.



134. The proposal fails to satisfy Clause 23 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* in terms of traffic and parking impacts of Parts 3.1 and 3.8 under the Child Care Planning Guideline, and vehicular access controls of Hurstville Development Control Plan (HDCP) No. 1.
135. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, the Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No 1.
136. The application is recommended for refusal.

## Determination and Statement of Reasons

### Statement of Reasons

137. The reasons for this recommendation are:
- The proposed development fails to satisfy the objectives of the R2 Low Density zone of Hurstville Local Environmental Plan 2012 in that the development will have an adverse impact upon the traffic and parking arrangements within the street and surrounding area.
  - The proposal fails to satisfy Clause 23 of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* in terms of traffic and parking impacts of Parts 3.1 and 3.8 under the Child Care Planning Guideline, and vehicular access controls of Hurstville Development Control Plan (HDCP) No. 1.
  - The narrow width of the road carriageway in conjunction with the proposed use as a child care centre has an adverse impact on the traffic generation and parking within the street and will result in adverse impacts in terms of traffic congestion.
  - The applicant has failed to provide a Plan of Management to demonstrate how impacts generated from the use and operation of the child care centre will be managed in a manner that will minimise impacts upon neighbouring properties and the surrounding areas.
  - The plans do not show clearly all boundary setbacks, building heights and other details that would assist in the assessment of the application.
  - The amended proposal provided fails to address the adverse impacts upon the Structural Root Zone (SRZ) of the street tree from the proposed driveway and location of stormwater lines.
  - The applicant has failed to provide a drainage plan prepared by a suitably qualified drainage engineer to address the required information requested by Council's drainage engineer.
  - In consideration of the aforementioned reasons, the proposed development is recommended for refusal.


### Determination

138. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel refuse DA2021/0192 for demolition of existing structures and the construction of a two storey 56 place childcare centre with basement parking for 12 vehicles, 6 bicycle spaces, landscaping and site works at Lot 97 in DP 16980 being 31 Bailey Parade, Peakhurst and Lot 96 DP 16980 known as 33 Bailey Parade, Peakhurst, for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development has not demonstrated compliance with Clause 23 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 of Parts 3.1 and 3.8 under the Child Care Planning Guideline in terms of traffic and parking impacts generated by the development.
2. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to provide sufficient information to satisfy all the objectives of the R2 Low Density Residential zone under Hurstville Local Environmental Plan 2012.
3. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment and Chapter 6 – Georges River Catchment of State Environmental Planning Policy (Biodiversity and Conservation) 2021.
4. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the planning controls contained in Chapter 3.1 of Hurstville Development Control Plan No 1, specifically demonstrating that pedestrian and vehicles conflicts have been minimised through the design of driveways.
5. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that a Plan of Management to demonstrate that the proposed child care centre will operate in a manner that will not have adverse impacts upon adjoining properties and surrounding streetscape.
6. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that the proposal fails to satisfy drainage requirements contained in Chapter 3.2 of Hurstville Development Control Plan No 1 as the proposal does not provide drainage plans prepared by a suitably qualified person that comply with section 4.5 of Council's Stormwater Management Policy, 2020.
7. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (b) of the Environmental Planning and Assessment Act 1979 in that the proposal fails to ensure that the proposed development will not adversely affect the street trees located within the frontage of the subject site.
8. The application is considered unacceptable pursuant to the provisions of s.4.15(1) (a)(iv) of the Environmental Planning and Assessment Act 1979 and Part 3 of the Environmental Planning Assessment Regulation 2021 in that insufficient and deficient information was provided with the application including a Plan of Management and plan notations to enable a comprehensive assessment of the application against the matters for consideration.

9. The application is considered unacceptable pursuant to the provisions of s.4.15 (1)(c) of the Environmental Planning and Assessment Act 1979 in that the adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed.
10. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (d) and (e) of the Environmental Planning and Assessment Act 1979 in that the public submissions raised valid grounds of concerns and the application is considered to be contrary to the public interest.
11. The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 in that the traffic congestion likely to be generated by the use of the development are exacerbated by the narrow road width and as such the development is not considered to be within the public interest.

## ATTACHMENTS

Attachment [↓](#) 1  Plans for 31 & 33 Bailey Parade, Peakhurst

**SITE CALCULATIONS**

SITE AREA NO 31:	494 1agn
SITE AREA NO 32:	490 5agn
TOTAL SITE AREA:	984 6agn
<b><u>TOTAL RIDES</u></b>	
0.2 RIDES X 1E:	55agn (UNENCUMBERED)
0.3 RIDES X 1E:	86agn (UNENCUMBERED)
3.5 RIDES X 2D:	67agn (UNENCUMBERED)
TOTAL RIDES 56	190agn (SUITABLE FOR 56 RIDES)
TOTAL CHILD CARE FLOOR AREA:	409sqm (FSR 0.415-1)
TOTAL OUTDOOR AREA:	3944sqm (SUITABLE FOR 56 RIDES)
LANDSCAPE AREA:	223sqm (MIN 2m)(20% OF SITE AREA)
TOTAL PARKING SPACES:	12 CHILD CARE SPACES TOTAL (INCLUDING 1 ACCESSIBLE SPACE)
BIKE SPACES:	6 SPACES

**AMENITIES TO SITE:**

1. CLOSE PROXIMITY TO NUMEROUS BUSES ALONG FOREST RD, BONDS RD & BAUMANS RD & RIVERWOOD TRAIN STATION.
2. THE SITE IS LOCATED IS WITHIN 120M TO PEAKHURST PUBLIC SCHOOL & CLOSE PROXIMITY TO PEAKHURST WEST PUBLIC SCHOOL.
3. CLOSE PROXIMITY TO FOREST RD, STONEY CREEK RD, KING GEORGES RD & M5 MOTORWAY.
4. CLOSE PROXIMITY TO NUMEROUS CHURCHES OF VARIED RELIGIONS.
5. CLOSE PROXIMITY TO PEAKHURST BUSINESS AREA & MORTDALE PLAZA & RIVERWOOD BUSINESS PARK.
6. CLOSE PROXIMITY TO LOCAL RESERVES.

**SITE ANALYSIS PLAN**

Scale: 1:100

**NOTE:**

REFER TO LANDSCAPE PLANS FOR TREATMENT OF ALL SETBACK AREAS

EXIST. STRUCTURES ON SITE DEMOLISHED SHOWN DOTTED

11.03.21	A	DA ISSUE
<b>DATE</b>	<b>REV</b>	<b>AMENDMENTS</b>

1. DO NOT SCALE FROM DRAWING USE WRITTEN DIMENSIONS ONLY
  2. BE SURE TO CHECK AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK
  3. IT IS THE OWNER'S RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBSOIL CONDITIONS & OBTAINED ALL STRUCTURAL ELEMENTS TO BE SET
  4. THE DIMENSIONS & DETAILS CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFERENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORIZED BY
- 6. COPYRIGHT - BUILDING DESIGN & TECHNOLOGY**



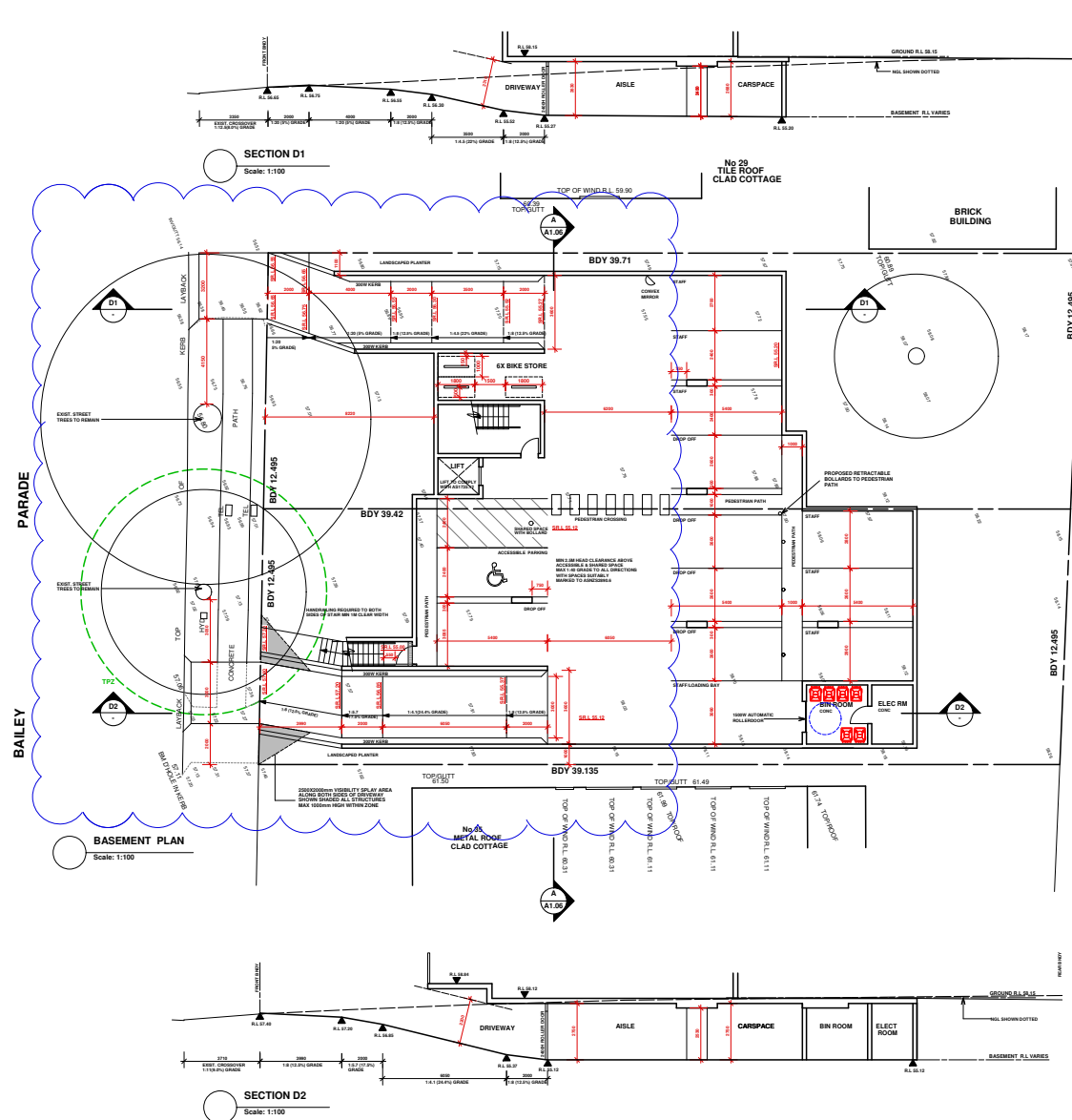
PROJECT: **PROPOSED CHILDCARE CENTRE LOCATED  
AT 31-33 BAILEY PDE PEAKHURST**

TITLE: **SITE ANALYSIS PLAN & LOCATION**

SCALE: **1:100 @ A1** DRAWN: **MM**

PROJECT DATE: **JAN 2021** CHECKED: **REV: A**





SITE CALCULATIONS	
SITE AREA NO 31:	494.1sqm
SITE AREA NO 33:	490.5sqm
TOTAL SITE AREA:	984.6sqm
<b>TOTAL AREAS</b>	
62 KIDS x 16:	55sqm (UNENCLUMBERED)
3-5 KIDS x 20:	60sqm (UNENCLUMBERED)
3-5 KIDS x 20:	67sqm (UNENCLUMBERED)
TOTAL KIDS 56:	182sqm (SUITABLE FOR 56 KIDS)
TOTAL CHILD CARE FLOOR AREA:	409sqm (FSR 0.41:1)
TOTAL OUTDOOR AREA:	394sqm (SUITABLE FOR 56 KIDS)
LANDSCAPE AREA:	223sqm (MIN 20% OF SITE AREA)
TOTAL PARKING SPACES:	13 CHILD CARE SPACES TOTAL (INCLUDING 1 ACCESSIBLE SPACE)
BIKE SPACES:	6 SPACES

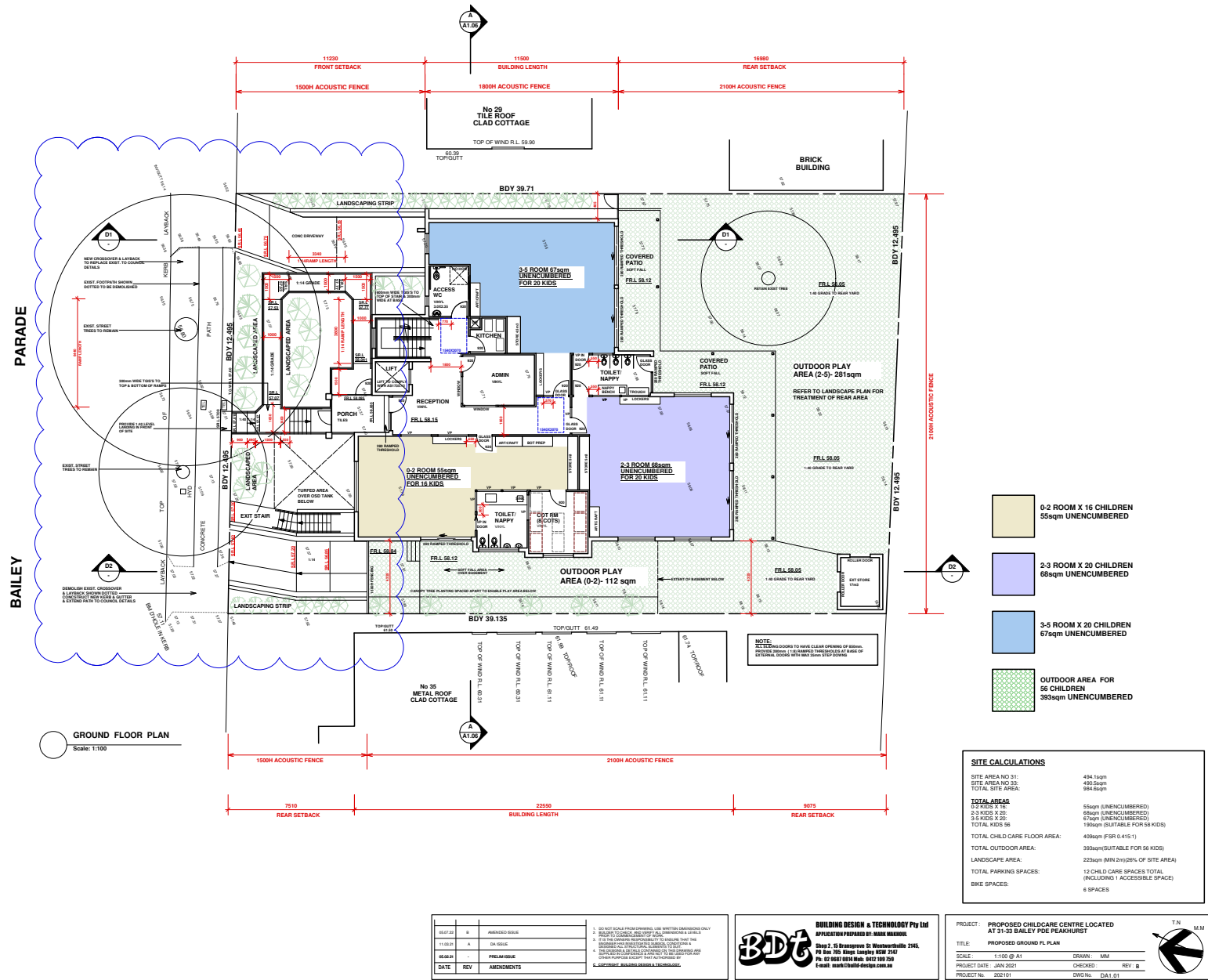
DATE	REV	REVISIONS
04.01.23	1	AMENDED DRIVEWAY & PARKING SPACES

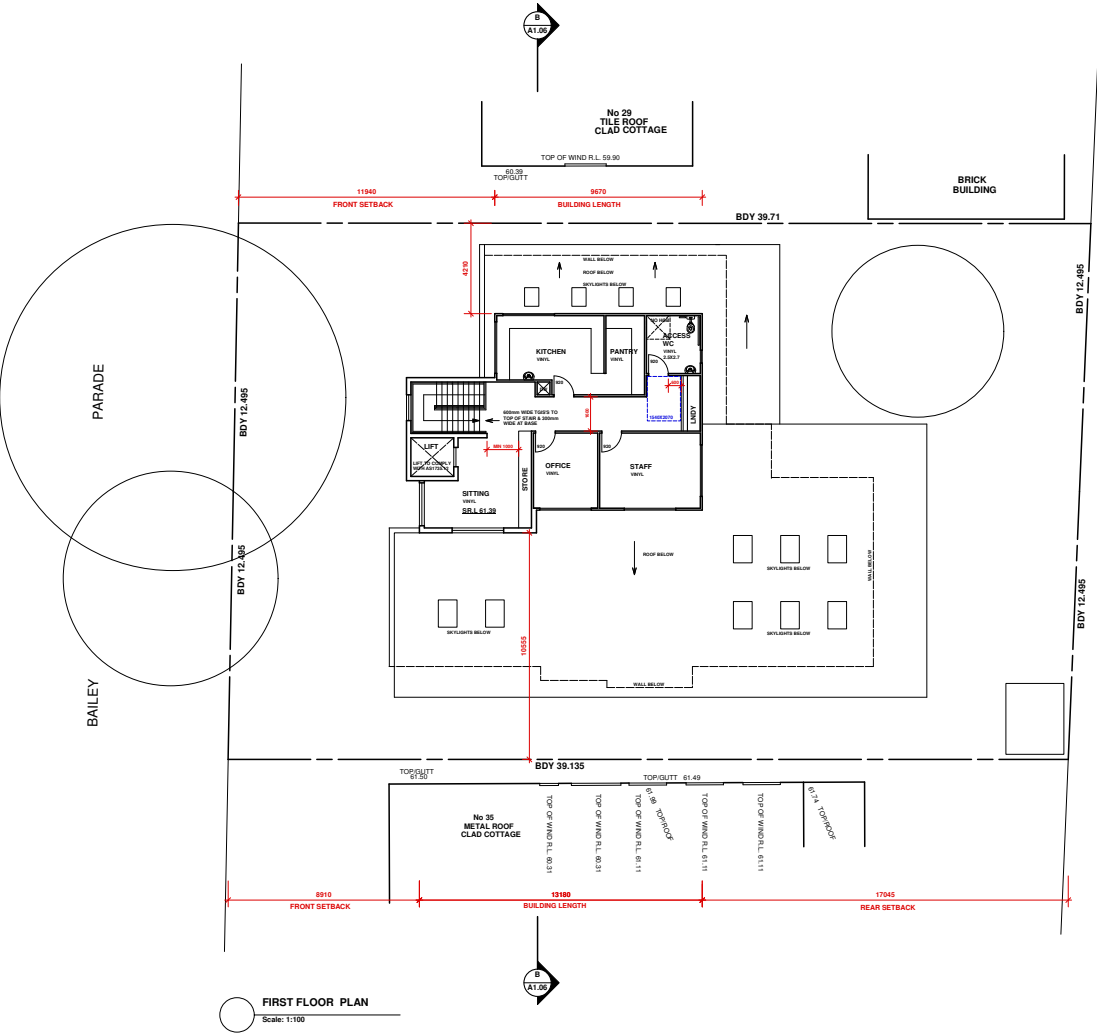
**BUILDING DESIGN & TECHNOLOGY Pty Ltd**  
APPLICATION PREPARED BY: MARK MARSHALL  
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PROJECT: PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PDE PEAKHURST  
TITLE: PROPOSED BASEMENT PARKING PLAN  
SCALE: 1:100 @ A1  
PROJECT DATE: JAN 2021  
PROJECT No: 202101

DRAWN: MM  
CHECKED: REV E  
DWG No: DA1.01

T.N. 34.14





SITE CALCULATIONS	
SITE AREA NO 31:	494.1sqm
SITE AREA NO 33:	460.5sqm
TOTAL SITE AREA:	954.6sqm
TOTAL AREAS	
2-3 KIDS X 20:	56sqm (UNNUMBERED)
3-5 KIDS X 20:	68sqm (UNNUMBERED)
5-9 KIDS X 20:	67sqm (UNNUMBERED)
TOTAL KIDS 55:	191sqm (SUITABLE FOR 55 KIDS)
TOTAL CHILD CARE FLOOR AREA:	484sqm (FOR 4-15/1)
TOTAL OUTDOOR AREA:	354sqm (SUITABLE FOR 55 KIDS)
LANDSCAPE AREA:	223sqm (MIN 20% (20% OF SITE AREA)
TOTAL PARKING SPACES:	12 CHILD CARE SPACES TOTAL (INCLUDING 1 ACCESSIBLE SPACE)
BIKE SPACES:	6 SPACES

DATE	REV	AMENDMENTS
11/03/23	A	DA ISSUE
05/03/23		PRELIMINARY

1. DO NOT SCALE FROM DRAWING. USE WRITTEN DIMENSIONS ONLY.

2. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

3. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

4. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

5. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

6. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

7. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

8. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.


9. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

10. ALL DIMENSIONS TO FACE UNLESS OTHERWISE SPECIFIED.

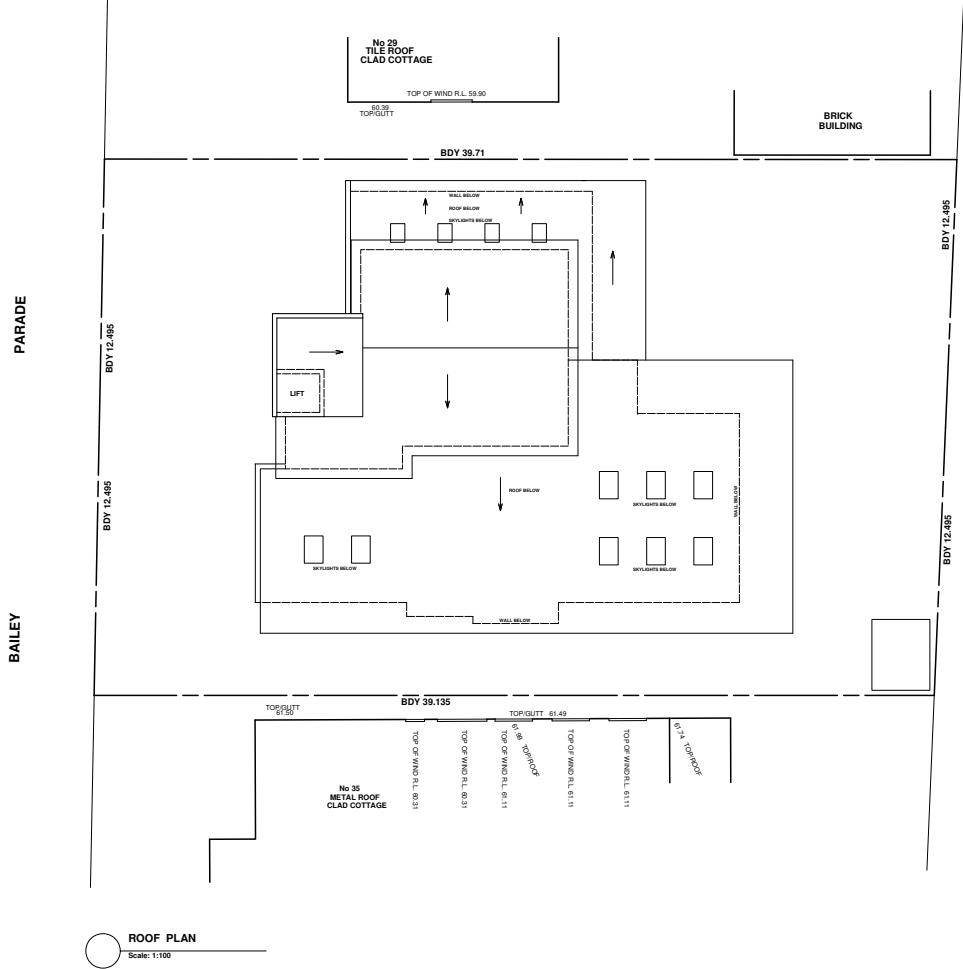


**BUILDING DESIGN & TECHNOLOGY Pty Ltd**  
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PROJECT:	PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PARADE PEAKHURST
TITLE:	PROPOSED FIRST FLOOR PLAN
SCALE:	1:100 @ A1
PROJECT DATE:	JAN 2021
PROJECT No:	202101
DRAWN:	MM
CHECKED:	REV A
DWG No:	DA1.03



T.N  
M.M



DATE	REV	AMENDMENTS
11/03/21	A	DA ISSUE
05/04/21		PRELIMINARY

1. DO NOT SCALE FROM DRAWING. USE WRITTEN DIMENSIONS ONLY.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

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7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.


8. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

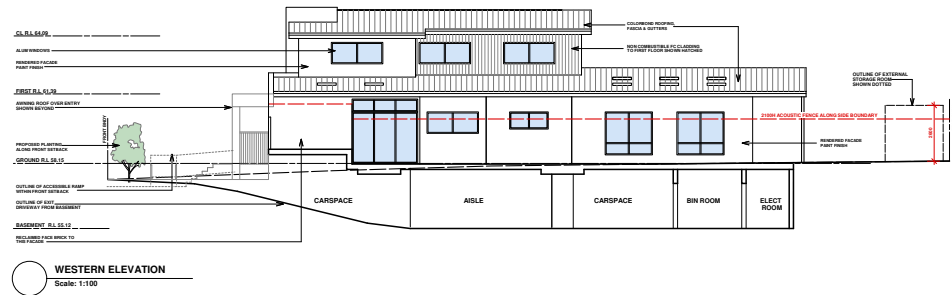
**BUILDING DESIGN & TECHNOLOGY Pty Ltd**  
APPLICATION PREPARED BY: MARK MARSHALL  
Unit 2, 15 Bransgrove St Westmeath NSW 2145  
Ph: 02 9807 0914 Mob: 0412 189 759  
E-mail: mark@bdt-design.com.au


PROJECT:	PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PARADE PEAKHURST
TITLE:	PROPOSED ROOF PLAN
SCALE:	1:100 @ A1
PROJECT DATE:	JAN 2021
PROJECT No:	202101
DRAWN:	MM
CHECKED:	REV A
DWG No:	DA1.04

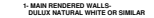


T.N  
M.M





PROJECT: <b>PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PDE PEAKHURST</b>		T.N	
TITLE: <b>ELEVATIONS</b>		M.M	
SCALE: <b>1:100 @ A1</b>	DRAWN: <b>MM</b>		
PROJECT DATE: <b>JAN 2021</b>	CHECKED: <b>REV: B</b>		
PROJECT No: <b>202101</b>	DWG No: <b>DA1.05</b>		




11.03.21	A	DA ISSUED
DATE	REV	AMENDMENTS

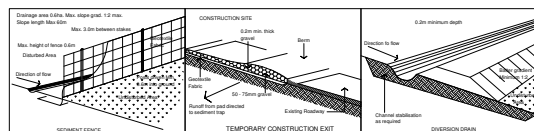
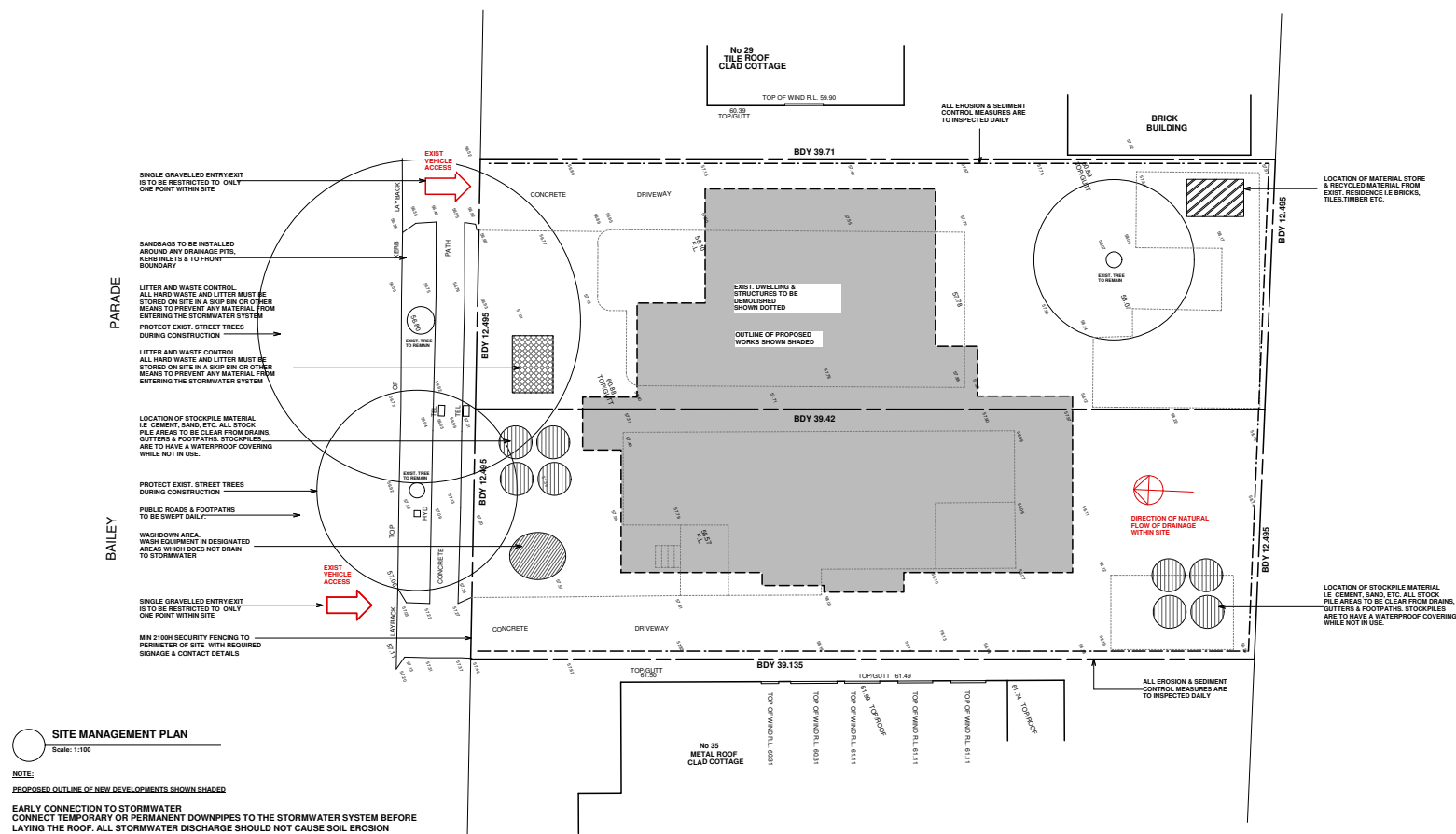
1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
2. ORDER TO CHECK, AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
3. IT IS THE OWNER'S RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBJECT, CONDITIONS & OBTAINED ALL STRUCTURAL ELEMENTS TO SUIT.
4. THE DESIGN & DETAILS CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFIDENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORIZED BY

**CONFIDENTIAL BUILDING DESIGN & TECHNOLOGY**



PROJECT : <b>PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PDE PEAKHURST</b>		T.N	M.M		
TITLE : <b>SECTION BB - COLOUR SCHEDULE</b>					
SCALE :	1:100 @ A1			DRAWN :	MM
PROJECT DATE :	JAN 2021			CHECKED :	REV : A
PROJECT No.	202101			DWG No.	DA1.06





**SEDIMENT CONTROL POLICY OBJECTIVE**

TO MINIMISE DISTURBANCE TO SOIL AND VEGETATION ON THE SITE & TO PREVENT EROSION AND THE EXPORT OF SEDIMENT FROM THE SITE

**GENERAL NOTES:**

DIRECT CLEAN UPWELL WATER AROUND THE BUILDING SITE  
LIMIT ACCESS TO ONE POINT AND STABILISE  
NOT ALL SEDIMENT FENCE BELOW THE SITE  
STOCKPILE AND PROTECT STRIPPED TOPSOIL  
STORE MATERIALS WITHIN THE SEDIMENT FENCE ENVELOPE  
PROVIDE A PROTECTED WASHOUT AREA  
CONNECT STRIPWATER BEFORE ROOF IS LAID  
MAINTAIN CONTROLS  
REINSTATE TOPSOIL AND STABILISE SITE

11.02.21	A	DA ISSUE
<b>DATE</b>	<b>REV</b>	<b>AMENDMENTS</b>

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY.
2. BUILDER TO CHECK AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
3. IT IS THE OWNERS RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBSOIL CONDITIONS & DESIGNED ALL STRUCTURAL ELEMENTS TO BE.
4. THIS DRAWING & DETAILS CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFIDENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORIZED BY.

C. COPYRIGHT BUILDING DESIGN & TECHNOLOGY.



PROJECT:	PROPOSED CHILDCARE CENTRE LOCATED AT 31-33 BAILEY PDE PEAKHURST		
TITLE:	SITE MANAGEMENT PLAN		
SCALE:	1:100 @ A1	DRAWN:	MM
PROJECT DATE:	JAN 2021	CHECKED:	
PROJECT No.	202101	DWG No.	DA1



# CONTOUR

## LANDSCAPE ARCHITECTURE

### DA DOCUMENTATION

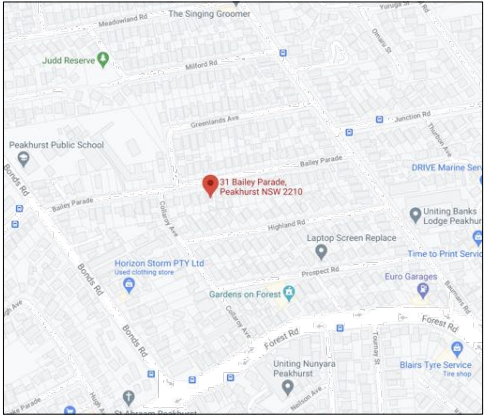
**PROJECT**  
**CHILDCARE CENTRE - 31-33 Bailey Pde,**  
**Peakhurst NSW 2210**

**ARCHITECT**



**BUILDING DESIGN & TECHNOLOGY Pty Ltd**  
APPLICATION PREPARED BY: MARK MAKHOUF  
**Shop 2, 15 Bransgrove St Westmead NSW 2145,**  
**PO Box 755 Kings Langley NSW 2147**  
**Ph: 02 9687 0614 Mob: 0412 109 750**  
**E-mail: mark@build-design.com.au**

### SITE LOCATION



### OUTLINE SPECIFICATION

ALL LANDSCAPE WORKS SHALL BE EXECUTED BY A COMPETENT LANDSCAPE CONTRACTOR EXPERIENCED IN HORTICULTURAL PRACTICE AND LANDSCAPE CONSTRUCTION. THE CONTRACTOR SHALL HOLD A CURRENT NEW STRUCTURAL LANDSCAPE LICENSE OR BE A MEMBER OF THE NEW LANDSCAPE CONTRACTORS ASSOCIATION. IRRIGATION WORKS SHALL BE EXECUTED BY A CONTRACTOR SUITABLY QUALIFIED AND LICENSED BY THE NSW DEPARTMENT OF FAIR TRADING FOR URBAN IRRIGATION.

THESE GENERAL LANDSCAPE SPECIFICATIONS SHALL BE READ IN CONJUNCTION WITH DETAILED SPECIFICATIONS PREPARED BY: CONTOUR LANDSCAPE ARCHITECTURE, STRUCTURAL ENGINEERING PLAN, STORMWATER ENGINEERING PLAN, AGRICULTURAL IMPACT ASSESSMENT REPORT, D.A. CONSENT CONDITIONS.

LANDSCAPE HARDWARES: DEMOLITION, BULK EARTHWORKS, RETAINING WALLS, STONE FACING, PLANTER BOXES, PAVING, DRAINAGE, WATERPROOFING, FENCING AND ALL SITE CONSTRUCTION INDICATED SHALL BE EXECUTED IN ACCORDANCE WITH LANDSCAPE ARCHITECTURAL, + ENGINEERING SPECIFICATIONS. LANDSCAPE WORKS SHALL GENERALLY BE UNDERTAKEN IN ACCORDANCE WITH DA APPROVED PLANS AND CONSTRUCTION CERTIFICATE PLANS AND DETAILS AND SHALL BE COMPLIANT WITH:

- AS4783:2009 Principles of tree on development sites
- AS 4070:2006 Annex 1: 2015 Protection of trees on development sites
- AS4770:2007 Planting of woody trees
- AS4190:2005 Soils for landscaping and garden use
- AS4684:2012 Composites, test conditions and methods
- AS1730:2009 Paving works
- AS/NZS2009.2015 Paving and drainage Set

**SERVICES**  
BEFORE LANDSCAPE WORK IS COMMENCED THE LANDSCAPE CONTRACTOR IS TO ESTABLISH THE POSITION OF ALL SERVICES LINES AND ENSURE TREE PLANTING IS CARRIED OUT AT LEAST 5 METRES AWAY FROM THESE SERVICES. SERVICES LINES, VENTS AND HYDRANTS SHALL BE LEFT EXPOSED AND NOTE COVERED BY ANY LANDSCAPE FINISHES (TURNING, PAVING, GARDEN BEDS ETC.) FRESH ADJOINING SURFACES FLOUS WITH PTV LOGS.

**MANAGEMENT OF TREE PROTECTION**  
A QUALIFIED AND APPROVED ARBORIST IS TO BE CONTRACTED TO UNDERTAKE OR MANAGE THE INSTALLATION OF PROTECTIVE FENCING, AND TO UNDERTAKE SUCH MEASURES AS THEY DEEM APPROPRIATE TO PRESERVE THE SUBJECT TREES TO BE RETAINED. THE ARBORIST IS TO BE RETAINED FOR THE ENTIRE CONTRACT PERIOD TO UNDERTAKE ONGOING MANAGEMENT AND REVIEW OF THE TREES.

CARE SHALL BE TAKEN DURING THE ENTIRE PERIOD OF WORKS TO ENSURE NO DAMAGE TO ROOTS OR CANOPIES OF TREES TO BE RETAINED. NO STORING OF BUILDING MATERIALS, WASHING OF EQUIPMENT, DISPOSAL OF CHEMICALS, ETC. SHALL BE PERMITTED BENEATH CANOPY OF TREES TO BE RETAINED. NO EXCAVATION OR TREESHEDDING SHOULD OCCUR BENEATH CANOPIES EXCEPT FOR CONCRETE-APPROVED WORKS. ALL EXCAVATION BENEATH TREE CANOPIES SHALL BE UNDERTAKEN TO CORROD. PROJECT ARBORIST INSTRUCTIONS. PROJECT ARBORIST SHALL BE ADVISED AND ATTEND SITE IF TREE ROOTS GREATER THAN 50MM DIAMETER ARE ENCOUNTERED.

**PREPARATION BY BUILDER**  
BUILDER SHALL REMOVE ALL EXISTING CONCRETE PATHWAYS, FENCES, FOOTINGS, WALLS, ETC. NOT NOTATED TO BE RETAINED AND COMPLETE ALL NECESSARY EXCAVATION WORK PRIOR TO COMMENCEMENT ON SITE BY LANDSCAPE CONTRACTOR. BUILDER SHALL ALSO INSTALL NEW RETAINING WALLS, KERBS, LANTERN, STOPS, GROUNDWORK, ETC. AND HAVE COORDINATE EXISTING KERBS, CUTTINGS, ETC. AS NECESSARY AND TO APPROVAL OF COUNCIL. BUILDER SHALL ENSURE THAT A MINIMUM 50MM OF TOPSOIL IN GARDEN AREA AND A MINIMUM 100MM OF TOPSOIL IN LAWN AREN EXIST. SHOULD REQUIRED DEPTH NOT EXIST BUILDER SHALL CONTRY LANDSCAPE ARCHITECT AND ASK FOR INSTRUCTIONS PRIOR TO COMPLETION OF EXCAVATION WORKS.

ALL LEVELS AND SURFACE DRAINAGE SHALL BE DETERMINED BY OTHERS AND APPROVED ON SITE BY LANDSCAPE CONTRACTOR.

**SOIL PREPARATION + PLANTING SOILS**  
SOIL HAVE TO BE 100MM OF 50MM ALL PROPOSED LAWN AND GARDEN AREAS. DO NOT CULTIVATE BENEATH EXISTING TREES TO BE RETAINED. IN AREAS WHERE FULL IS REQUIRED OARS REQUIRED SHAPES AND LEVELS USING A PREMIUM GRADE SOIL MIX. IN AREAS WHERE EXCAVATION IS REQUIRED (IF IN CLAY) OVER EXCAVATE AS REQUIRED TO ALLOW FOR INSTALLATION OF 50MM DEPTH OF PREMIUM GRADE TOPSOIL MIX TO GARDEN AREAS AND 30MM DEPTH OF PREMIUM GRADE TOPSOIL MIX TO LAWN AREAS.

**SUBGRADE PREPARATION**  
BEFORE LAYING TOPSOIL, THE FOLLOWING SUBGRADE TREATMENT MUST BE APPLIED TO ALL FINISHED SUBGRADE AREAS:

1. LAWN + TREE TO 120mm LVL. TO ACCOMMODATE REQUIRE OVERALL SOIL DEPTH
2. REMOVE ROCK 150mm DIAMETER
3. REMOVE RUBBER SUCH AS CONSTRUCTION GENERATOR WASTE, PLASTIC, METAL GLASS
4. APPLY GYPHUM AND LIME AT MANUFACTURERS RECOMMENDED RATES
5. COVER SUBGRADE TO 20mm DEPTH LEAVING SURFACE NOTED TO ACCEPT TOPSOIL

CONTRACTOR SHALL UNDERTAKE PH TESTS AND ADJUST WHERE NECESSARY TO ACHIEVE A PH WITHIN THE 5.5 - 7.5 RANGE. MIX IN GYPHUM AT MANUFACTURERS RECOMMENDED RATES IF CLAY SOIL ENCOUNTERED.

UNDERLIE ALL REQUIRED ACTION TO ENSURE THAT NO ROOTBALLS OF PROPOSED PLANTS ST IN CLAY WELLS AND THAT ALL GARDEN AREAS AND LAWN AREAS DRAIN SATISFACTORILY. NOTE IT IS INTENDED THAT WHEREVER POSSIBLE EXISTING LEVELS SHALL NOT BE ALTERED THROUGH GARDEN AND LAWN AREAS. IT IS THE CONTRACTORS RESPONSIBILITY TO ENSURE THAT THE END RESULT OF THE PROJECT IS THAT ALL LAWN AND GARDEN AREAS DRAIN SUFFICIENTLY BOTH SURFACE AND SUBSTRATE, ARE AT REQUIRED FRESH LEVELS AND HAVE SUFFICIENT SOIL DEPTHS TO ENABLE LAWN AND PLANTS TO THRIVE AND GROW. SHOULD ALTERNATIVE WORKS TO THOSE SPECIFIED REQUIRED TO ACHIEVE THAT RESULT, CONTRACTOR SHALL INFORM BUILDER AT TIME OF TENDER AND REQUEST INSTRUCTIONS.

**PLANTING**  
ALL PLANTS SHALL BE WELL GROWN AND DISEASE FREE. PLANTING SHALL BE IN ACCORDANCE WITH PLANTING SCHEDULE. TREES SHALL BE GROWN TO NATURAL; GENERAL PLANT MATERIAL, EXOTICS AND ENDemic SUPPLY PLANTS IN ACCORDANCE WITH PLANTING SCHEDULE. NO SUBSTITUTIONS ARE PERMITTED WITHOUT THE CONSENT OF THE SUPERVISING LANDSCAPE ARCHITECT. PLANT MATERIAL SHALL BE GROWN TO NATURAL AND SHALL BE VIGOROUS, WELL ESTABLISHED, FREE OF DISEASE AND PESTS, UNDEVELOPED OFF, TREE TOP FORM AND GROWN IN THEIR FINAL CONDIMERS FOR NOT LESS THAN 1 YEARS. TREES SHALL HAVE A SINGLE LEADING SHOOT AND POTTS FREE FROM WEEDS.

IMMEDIATELY PRIOR TO DRAIN OUT, DAMAGED OR UNWANTING PLANT MATERIAL, BEFORE PLANTING.

PLANT HOLES SHALL BE DIG APPROXIMATELY TWICE THE WIDTH AND TO 100MM DEEPER THAN PLANT ROOTBALLS THAT THEY ARE TO RECEIVE. BASE AND SIDES OF HOLE SHALL BE FURTHER LOOSENED. FERTILISER, FOLLOWED BY 100MM DEPTH OF TOPSOIL MIX SHALL THEN BE PLACED INTO BASE OF HOLE AND LIGHTLY CONSOLIDATED. ACTION TO ENSURE THAT NO ROOTBALLS OF PROPOSED PLANTS ST IN CLAY WELLS AND THAT ALL GARDEN AREAS AND LAWN AREAS DRAIN SATISFACTORILY. NOTE IT IS INTENDED THAT WHEREVER POSSIBLE EXISTING LEVELS SHALL NOT BE ALTERED THROUGH GARDEN AND LAWN AREAS. IT IS THE CONTRACTORS RESPONSIBILITY TO ENSURE THAT THE END RESULT OF THE PROJECT IS THAT ALL LAWN AND GARDEN AREAS DRAIN SUFFICIENTLY BOTH SURFACE AND SUBSTRATE, ARE AT REQUIRED FRESH LEVELS AND HAVE SUFFICIENT SOIL DEPTHS TO ENABLE LAWN AND PLANTS TO THRIVE AND GROW. SHOULD ALTERNATIVE WORKS TO THOSE SPECIFIED REQUIRED TO ACHIEVE THAT RESULT, CONTRACTOR SHALL INFORM BUILDER AT TIME OF TENDER AND REQUEST INSTRUCTIONS.

**STAKES + TIES**  
THE LANDSCAPE CONTRACTOR SHALL REPLACE OR ADJUST PLANT STAKES, AND TREE GUARDS AS NECESSARY OR AS DIRECTED BY THE LANDSCAPE ARCHITECT.

STAKES SHALL BE STRAIGHT HARDWOOD, FREE FROM KNOTS AND TWISTS, POINTED AT ONE END AND SIZED ACCORDING TO THE SIZE OF PLANTS TO BE STAKED:

1. 5-10 LITRE SIZE PLANT 1X 1200 X 25 X 25MM
2. 15-30 LITRE SIZE PLANT 2X 1200 X 30 X 30MM
3. 100+ LITRE SIZE PLANT 3X 1800 X 50 X 50MM

TIES SHALL BE 50MM WIDE HESSIAN WEAVING APPROVED EQUIVALENT NAILED OR STAPLED TO STAKE. DRIVE STAKES A MINIMUM ONE THIRD OF THEIR LENGTH, AVOIDING DAMAGE TO THE ROOT SYSTEM, ON THE WINDWARD SIDE OF THE PLANT.

**FERTILIZER**  
AT PLANTING SPREAD SLOW RELEASE FERTILIZER AROUND DRIP LINE OF ALL PLANTS AT MANUFACTURERS RECOMMENDED RATES.

GENERAL APPLICATION:  
EQUAL TO OSBORNE PLUS TRACE ELEMENTS - ALL PURPOSE NPK 19-4-15-6

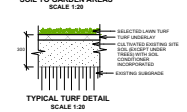
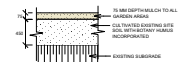
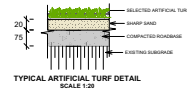
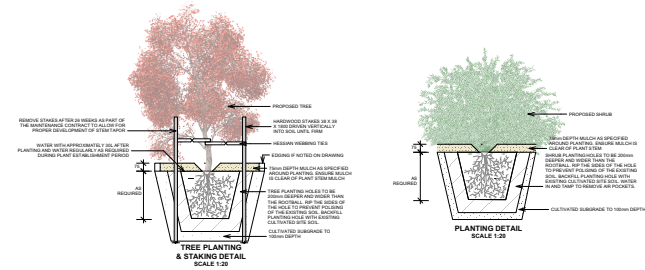
NATIVE PLANTS SOIL: TO OSBORNE PLUS TRACE ELEMENTS - NATIVE GARDENS NPK 17-3-13-7-3

**MULCH**  
ENSURE ALL MULCH IS FREE OF WEED SEED AND VEGETATIVE MATERIAL. PROVIDE SAMPLE OF MULCH FOR CLIENT APPROVAL PRIOR TO DELIVERY.

PLACE MULCH TO REQUIRED DEPTH (REFER TO DRAWINGS) CLEAR OF PLANT STEMS, AND RAKE TO AN EVEN SURFACE FINISHING 25MM BELOW ADJOINING LEVELS. ENSURE MULCH IS WATERED: RAKED AND TAMPED DOWN DURING INSTALLATION.

**EDGING**  
EDGING SHALL BE INSTALLED AT THE JUNCTION OF LAWN AND GARDEN AREAS AS INDICATED ON DRAWINGS. EDGE SHALL BE FINISHED LEVEL WITH LAWN OR ADJOINING GRAVEL. EDGE SHALL TYPICALLY BE 100MM HIGH WITH ALUMINUM FINISH. INSTALL TO MANUFACTURERS SPECIFICATIONS.

**FENCING**  
RETAIN ALL EXISTING FENCING UNLESS ADVISED OTHERWISE BY BUILDER.



CONTOUR  
LANDSCAPE ARCHITECTURE  
PO Box 698 MONA VALE NSW 1660  
Tel: 0434 500 705 - AIDLM

**PROJECT**  
**New Childcare Centre**  
**SITE**  
**31-33 Bailey Pde,**  
**Peakhurst NSW 2210**

**NOTES**  
comply with building code of australia and all relevant australian standards  
all works shall be in accordance with development application and construction certificate conditions of consent  
all levels to and  
refer to survey information relating to existing site data  
verify all dimensions prior to works  
do not scale from drawings  
use tapered dimensions in preference to scaling  
note all dimensions to be verified by measurement  
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DATE	REV	ISSUE
05/03/21	A	
19/07/22	B	

DATE:	19/07/22	DRAWING	COVER SHEET
SCALE:	N/A @ A3	DRAWING NO:	C3
DRAWN:	SW	REV:	B



AGES 0-5

ELEMENTS AND FEATURES FOR PLAY:  
SPACE FOR RUNNING, CLIMBING, SLIDING, IMAGINATIVE PLAY AND DISCOVERY  
INTERACTION WITH PLANTS AND ANIMALS  
AREA FOR CREATIVITY, MAKE BELIEVE, SHARING AND SOCIAL INTERACTION  
EMPHASIS ON GROUP LEARNING AND COLLABORATION



RAISED VEGETABLE GARDENS



MUD KITCHEN



NEST PLAYSACE



HAWKS NEST PLAYSACE



TUNNEL CUBBY



ANIMAL MURALS

DESIGN INSPIRATION & APPROACH

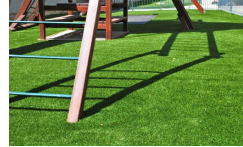
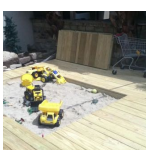
AGES 2-5

ELEMENTS AND FEATURES FOR PLAY:  
CLIMBING ELEMENTS, BALANCING, HOPPING, CLIMBING, SANDPIT  
TIMBER BOARD WALK, PLANTING FOR EXPLORATION AND DISCOVERY.  
INCREASING PHYSICAL ABILITIES AND EXPLORING MOVEMENT.  
INCREASING SKILLS INCLUDE HOPING, BALANCING, CLIMBING, BOUNCING AND SWINGING.  
WATER PLAY



0-2 YR OLDS

ELEMENTS AND FEATURES FOR PLAY:  
SURFACES AND TEXTURE VARIETY, MIRRORS, SHADOWS AND PATTERNS  
TUNNELS AND CAVES FOR CRAWLING AND PLANTING TEXTURES.  
EMPHASIS ON COLOUR AND CONTRAST, MOVEMENTS INCLUDING CRAWLING,  
ROLLING AND EARLY WALKING. GROUND LEVEL PLAY INCLUDING CRAWLING AND  
DISCOVERY.



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DATE REV. ISSUE  
05/03/21 A  
19/07/22 B

DATE: 19/07/22

SCALE: 1:100 @ A1  
1:200 @ A3

DRAWN: SW

DRAWING  
DESIGN INSPIRATION  
AND APPROACH

DRAWING NO:  
C1

REV:  
B

