

<b>ITEM-2</b>	<b>PLANNING PROPOSAL 160-162 EXCELSIOR AVENUE, CASTLE HILL 3/2015/PLP</b>
<b>THEME:</b>	Balanced Urban Growth
<b>OUTCOME:</b>	7 Responsible planning facilitates a desirable living environment and meets growth targets.
<b>STRATEGY:</b>	7.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
<b>GROUP:</b>	<b>STRATEGIC PLANNING</b>
<b>AUTHOR:</b>	<b>TOWN PLANNER</b> PATRICE GRZELAK
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER FORWARD PLANNING</b> STEWART SEALE

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### **EXECUTIVE SUMMARY**

This report recommends that a planning proposal to amend Schedule 1 'Additional Permitted Uses' of Local Environmental Plan 2012 to permit a *child care centre* at 160-162 Excelsior Avenue, Castle Hill be forwarded to the Department of Planning and Environment for Gateway Determination.

The existing 'Keen Kiddies' Early Learning Centre is located at 162 Excelsior Avenue and currently provides 54 child care places with eight (8) staff. The planning proposal is to facilitate the expansion of the centre onto the adjoining lot to enable the amalgamation and redevelopment of the site to accommodate a further 44 children, resulting in a 98 place childcare centre. The planning proposal does not seek to amend the existing zone or development standards applying to the site.

The child care centre is located in the R2 Low Density Residential Zone where child care centres are a prohibited use. The centre operates under existing use rights and gained consent under Council's former Local Environmental Plan 2005 which permitted child care centres in this location. In preparing Council's current Local Environmental Plan child care centres were prohibited in the R2 Low Density Residential zone because of potential impacts to character, residential amenity and traffic generation on local streets.

For the subject site, a change to permitted uses to authorise the existing use and allow its expansion is considered warranted given the location of the site at the periphery of medium density development and alongside Old Northern Road. Unlike other child care centres surrounded by low density residential development, there is opportunity to address any potential impacts on the low density character to the south and west of the subject site. Amenity issues relating to noise and privacy can be appropriately managed through measures contained within Council's development control plan.

With regards to traffic, the site is located in a highly accessible location. Excelsior Avenue is a minor collector road and Old Northern Road is part of the arterial road network providing direct access through the Shire. The site is therefore not located on a local street and traffic generation arising from the proposal is unlikely to adversely

impact on the capability of the wider transport network. Whilst the existing centre is located on a classified road the safety of children on the site would not be exacerbated by the proposal given the expanded site is located away from Old Northern Road and new play areas are to the rear of the site.

The proposal is therefore supported on the basis that it will allow for the expansion of an established business that will respond to child care needs in the locality in a way that can be appropriately managed to minimise any adverse impacts on the residential environment.

**APPLICANT**

GSA Planning

**OWNERS**

B & Y Draybi Pty Ltd

**POLITICAL DONATIONS**

Nil disclosures

**THE HILLS LOCAL ENVIRONMENTAL PLAN 2012**

Zone:	R2 Low Density Residential
Minimum Lot Size:	700m <sup>2</sup>
Maximum Height:	9m
Maximum Floor Space Ratio:	Not applicable

**HISTORY**

- 22/08/2006** Council granted development consent (DA1176/2006/HA) for the use of a dwelling at 162 Excelsior Avenue, Castle Hill as a child care centre for 54 children.
- 30/03/2007** Gazettal of Baulkham Hills Local Environmental Plan 2005 (Amendment 2) prohibiting child care centres on classified roads.
- 03/04/2007** Development Control Plan No.39 - Child Care Centres came into force.
- 10/08/2009** Council granted consent for minor alterations to permit an additional 20 children at the approved child care centre at 162 Excelsior Avenue, Castle Hill.
- 05/10/2012** The Hills Local Environmental Plan 2012 was notified on the NSW Government legislation website and came into force. The LEP prohibits child care centres in the R2 Low Density Residential zone.
- 15/08/2014** The subject planning proposal was lodged.
- 07/10/2014** The planning proposal was presented to a Councillor workshop.

**BACKGROUND**

The existing child care centre at 162 Excelsior Avenue gained development consent in 2006 and currently operates under existing use rights as child care centres were permitted with consent within the previous Residential 2(b) zone under Local Environmental Plan 2005.

The consent was also granted prior to the gazettal of LEP amendments to prohibit child care centres fronting classified roads. The purpose of this amendment was to improve child safety as well as reduce traffic interruptions along busy roads. At the time of consent, the draft LEP relating to child care centres was on public exhibition and the development application was assessed in line with the objectives of the draft amendment. In this regard the proposal incorporated a number of measures to reduce potential safety hazards to children including a 5.5m setback to Old Northern Road containing a concrete block retaining wall, masonry wall and safety barrier along the entire length of the Old Northern Road frontage. Given these proposed measures the development was considered to satisfy potential child safety issues and was approved by Council.

During the preparation of Council's Standard Instrument Local Environmental Plan 2012, consideration was given to appropriate land uses within the low density residential environment. Due to the potential impacts of child care centres on residential character, amenity and traffic generation on local streets the land use was listed as prohibited in the R2 Low Density Residential zone.

**REPORT**

The purpose of this report is to consider an amendment to Schedule 1 'Additional Permitted Use' Local Environmental Plan 2012 to permit a *child care centre* at 160-162 Excelsior Avenue, Castle Hill.

The report examines the strategic context in addition to acoustic impacts, privacy, vehicular traffic, access and parking impacts on the existing residential character.

**1. THE SITE**

The site consists of two (2) properties, 160-162 Excelsior Avenue, Castle Hill (Lots 1 and 2, DP 562533) and is located on the corner of Old Northern Road and Excelsior Avenue, approximately 1.4 kilometres to the south-west of the Castle Hill major centre. The site is located on the western corner of the four-way intersection of Old Northern Road and Excelsior Avenue, Castle Hill.

The land is rectangular in shape and has a primary frontage of 50m to Excelsior Avenue a secondary (side) frontage of 43m to Old Northern Road and an area of 2,205m<sup>2</sup>. The site is accessed at two separate points from Excelsior Avenue. Gilroy College and a medium density integrated residential development are located to the north of the site. Single residential dwellings are located on adjoining land to the south and west.

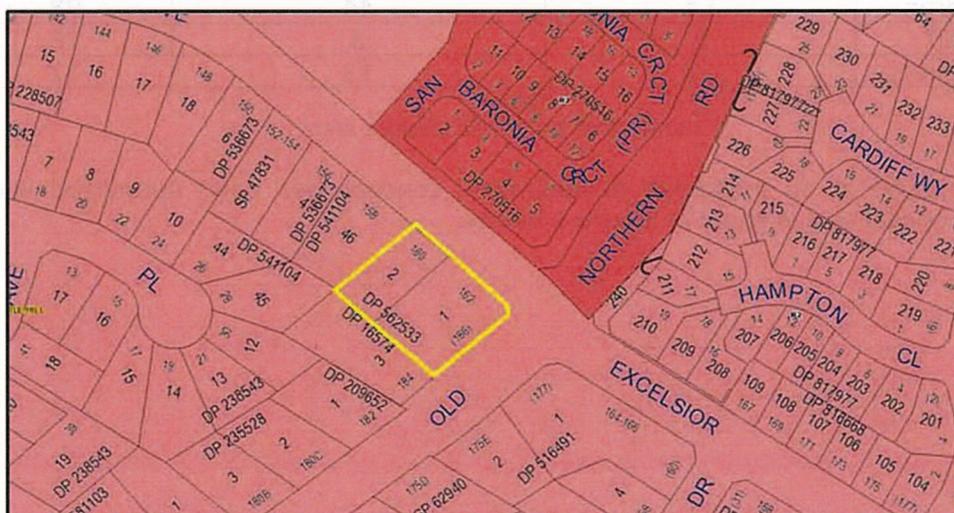


**Figure 1**  
Site and Surrounds

## 2. PLANNING PROPOSAL

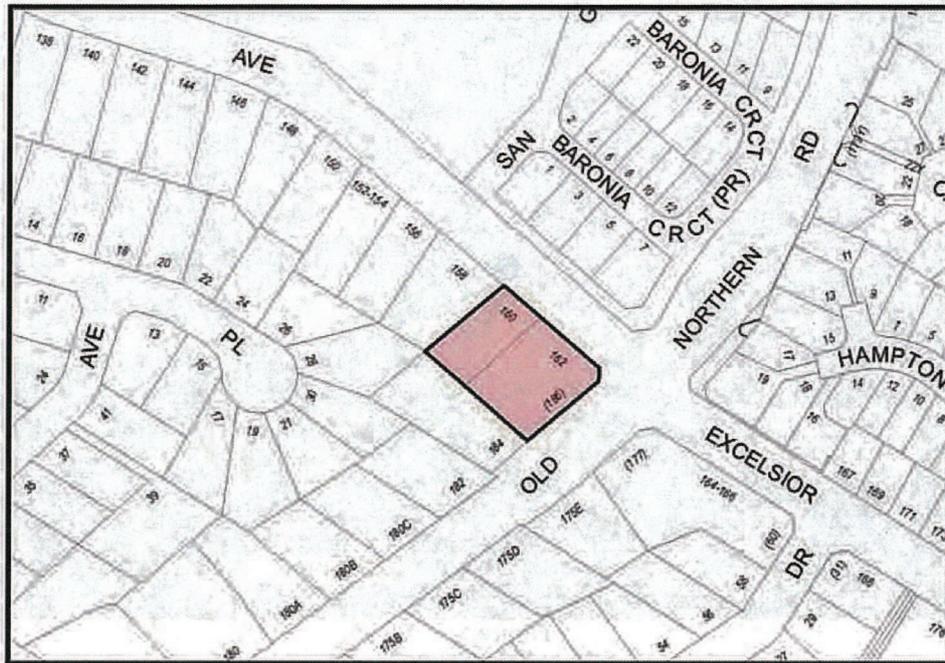
The planning proposal seeks to amend Schedule 1 'Additional Permitted Uses' of Local Environmental Plan 2012 to permit a *child care centre* on both lots (160-162 Excelsior Avenue, Castle Hill) in order to facilitate the expansion of the existing child care centre and to regulate the permissibility of the use into the future.

The planning proposal does not seek to amend the existing zoning in order to maintain the objectives and built form and low scale development permitted within the R2 Low Density Residential zone (Figure 2)



**Figure 2**  
Existing Zoning Map

The proposal would require the site to be identified on the Additional Permitted Uses map as shown in Figure 3.



**Figure 3**  
Proposed Additional Permitted Uses Map

The applicant seeks to expand the existing business to address a shortfall in child care places in the local community. In particular there is currently a deficit in places for the 0-2 age group across the Shire and the applicant has indicated they currently have a waiting list of 300 children. Eight (8) new jobs would be created by the proposal.

A summary of the existing and proposed development yield of the site is provided below.

	<b>Existing Approved Development</b>	<b>Proposed Development 160 Excelsior Avenue</b>	<b>TOTAL</b>
Children	54	44	98
Staff	8	8	16
Car Spaces	19	13	32

**Table 1**  
Existing and proposed development

A photomontage of an indicative development concept has been submitted with the planning proposal and is show in Figure 4 below.



**Figure 4**  
Photomontage of concept development

The application is also supported by a Traffic and Parking Report prepared by Varga Traffic Planning Pty Ltd (August 2014) and an Acoustic Assessment prepared by Acoustic Logic (July 2014).

### **3. STRATEGIC CONTEXT**

#### Metropolitan Plan for Sydney 2036

The strategic plan prepared by the NSW Government aims to integrate land use and transport planning to provide a framework for the growth and development of the Sydney Region to 2036. It seeks to ensure adequate land supply for economic activity, investment and jobs in the right locations and to strengthen clusters of activities in Specialised Centres.

The Plan identified that Sydney's growing population will need an additional 760,000 jobs by 2036 with 145,000 additional jobs to be located within the North West Subregion. The planning proposal is consistent with this framework as the expanded business will directly employ 8 additional staff once complete. The planning proposal will support population growth through the provision of additional child care services for the local community.

#### Draft Metropolitan Strategy for Sydney 2031

The Draft Metropolitan Strategy for Sydney will replace the Metropolitan Plan for Sydney 2036. The draft Strategy establishes a vision with key objectives, policies and actions to guide the growth of Sydney to 2031.

The planning proposal is consistent with the Strategy as it will provide local employment and support parents by the provision of additional child care facilities close to local schools such as Gilroy Catholic College, St Gabriel's School and Excelsior Public School. The site is also located within reasonable proximity of the Castle Hill major centre and will support the child care needs of workers.

#### Draft North West Subregional Strategy

The Draft North West Subregional Strategy was prepared by the NSW Government to implement the Metropolitan Plan and the State Plan. It is currently being reviewed by the Department of Planning and Environment. An overarching theme of the strategy is

for dwelling and employment growth to be concentrated within centres and near public transport hubs.

The planning proposal is consistent with objectives relating to employment and the provision of services and facilities to assist increased residential growth.

#### The Hills Shire Local Strategy

The Employment Lands Direction and Residential Direction are the relevant components of the Local Strategy to be considered in assessing this application.

- Employment Lands Direction

The North West Subregional Strategy establishes an employment capacity target for the Shire from 2001 to 2031 of 47,000 jobs. The Employment Lands Direction demonstrates the ability to meet this target with capacity for 55,574 additional jobs to 2031. In addition to the contribution towards anticipated employment targets, the Direction seeks to provide employment close to home, services and transport infrastructure.

The planning proposal is consistent with this Direction as it provides an opportunity to support the growth of local businesses, additional local employment and will strengthen the services available within vicinity of Castle Hill major centre.

- Residential Direction

Council has maintained a planned and deliberate approach to managing urban growth within the Shire by ensuring more intense land uses are strategically located close to centres and public transport. This approach focuses on the management of potential conflicts between more intense land uses and the amenity of low density residential environments.

Whilst the site is located within the R2 Low Density Residential zone it is located on the periphery of the R3 Medium Density Residential zone. There is opportunity to manage potential impacts to the amenity of adjoining low density residential properties to the south and south west through existing development control measures for child care centres.

#### Ministerial Section 117 Directions

Section 117(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) enables the Minister for Planning to issue directions that councils must address when preparing planning proposals for a new Local Environmental Plan.

The planning proposal is consistent with these directions. Of particular relevance is Direction 3.1 Residential Zones.

#### *Direction 3.1 Residential Zones*

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within a residential zone and requires that a planning proposal must include provisions that encourage the provision of housing to broaden housing choice and make efficient use of existing infrastructure and services.

This planning proposal is considered to be consistent with the direction as it will retain the existing R2 Low Density Residential zone across the site and continue to permit housing outcomes consistent with the objectives of the zone.

**4. MATTERS OF CONSIDERATION**

The key issues in assessing the planning proposal relate to potential impacts on the character and amenity of the surrounding area and traffic impacts. Given the site has a boundary to a classified road the safety of children on the site is also a consideration.

**a) Character and Amenity Impacts***(i) Character*

Whilst the site is located within a R2 Low Density Residential zone it is directly adjacent to the southern periphery of the R3 Medium Density zone and the Old Northern Road corridor to the east. Given the foregoing and the sites accessible location, the continuing use of a child care centre provides an appropriate transition between the medium and low density uses. The design concept reflects a built form and style that is not out of character with the streetscape or with nearby low density development.

The planning proposal does not seek to change the prevailing development standards for the R2 Low Density Residential zone including a maximum height limit of 9m. The proposed height of the development will step from 8.9m (existing child care) down to 7.2m (proposed extension) and will therefore retain a height that is consistent with the low density character of the zone.

*(ii) Amenity*

The planning proposal was accompanied by an Acoustic Assessment which concludes impacts on nearby residential properties will be satisfactory, provided the acoustic treatments recommended within the report are constructed.

These include new 1.8m high boundary fencing where the expanded site adjoins low density residential development and a landscaping canopy ranging from 2.2m – 2.5m high (including retention of existing mature trees) which would provide screening and assist in noise reduction. An acoustic barrier system is also proposed for new play areas on the first and ground floors. In addition glazing and acoustic seals will be installed on windows, and the installation of absorptive materials within the roof of the outdoor play area to minimise external noise transmission.

The recommendations outlined in the Acoustic Assessment are considered appropriate and are consistent with objectives for child care centres under Council's development control plan and will address both acoustic and privacy impacts. The specific measures as identified would form part of any future development consent that may be issued for the site.

The planning proposal does not identify any changes to the current hours of operation from 7:00am until 6:00pm Monday to Friday it is noted these hours are consistent with Council's current development controls for child care centres.

**b) Traffic and Access**

A Traffic and Parking Assessment was submitted with the planning proposal which evaluates the traffic and parking implications of the proposed expansion onto 160 Excelsior Avenue. The likely future traffic generation based on Roads and Maritime Services guidelines (0.8 peak hour vehicle trips for child care centres) and an additional

44 children, yields a rate of 35 additional vehicle trips per hour (in and out combined) during commuter periods.

The traffic report concluded that the proposed expansion of the existing child care centre:

- Will not have any unacceptable traffic implications in terms of road network capacity;
- Will not require road improvements or intersection upgrades;
- Will comply with Council's Parking Code requirements; and
- The design layout of the proposed parking facilities have been designed in accordance with Australian Standards.

It is agreed that the proposed expansion of the centre is unlikely to create any adverse impacts on the functioning or capability of the surrounding road network. The parking needs of the development (32 spaces total) would be wholly contained within the site and is consistent with Councils controls.

#### c) Safety

Under current controls there is a requirement for child care centres not to have a frontage along a classified road to ensure sites are located in a safe environment and do not present hazards to children. It is recognised that the existing development was approved prior to these controls coming into force, however as outlined in the background to this report a number of measures are in place to address safety concerns relating to the development.

The proposed expanded site area does not have a boundary to Old Northern Road and proposes an additional outdoor play area that is not adjacent to the road. As such it is considered the proposal will be likely to facilitate improved safety outcomes on the site.

### **5. USE OF SCHEDULE 1 'ADDITIONAL PERMITTED USES'**

The Department of Planning and Environment has prepared a draft Practice Note on the application of Schedule 1 'Additional Permitted Uses' of the Standard Instrument Local Environmental Plan. The draft Practice Note highlights that land use permissibility should preferably be controlled through zoning and the Land Use Table. However the draft Practice Note also provides that where this is not possible, and the intended outcome is adequately justified by Council, the use of Schedule 1 may be acceptable.

The option of rezoning the land to R3 Medium Residential Density (where child care centres are a permitted use) has not been pursued to ensure the site maintains the low density objectives. In this particular circumstance the use of Schedule 1 is considered justified as it will allow the continued use of the site as a child care centre without enabling more intense uses such as multi dwelling housing or neighbourhood shops which would be permitted in the R3 Medium Residential Density zone. This approach ensures that should the child care centre cease to operate at some future time, the low density residential character that adjoins the site to the south and west, will be maintained.

### **NEXT STEPS**

Should Council resolve to support the planning proposal for the site, it will then be forwarded to the Department of Planning and Environment for a Gateway Determination.

**CONCLUSION**

The planning proposal will enable the expansion of 'Keen Kiddies' Early Learning Centre onto the adjoining lot to enable the redevelopment of the site for a 98 place child care centre. The planning proposal will facilitate additional child care places in the Castle Hill locality and assist with meeting the future needs of the Shire's rapidly growing population.

Whilst Council has adopted a policy position, implemented with the standard instrument LEP, to prohibit child care centres in low density locations it is important to recognise that the subject site accommodates an existing approved child care centre in a location at the periphery of the low density area. The characteristics of the site are different to child care centres surrounded predominately by low density residential development where the potential impacts in terms of traffic, noise and amenity are difficult to manage.

It is therefore recommended that a planning proposal to amend Schedule 1 'Additional Permitted Uses' of Council's Local Environmental Plan to permit a *child care centre* at 160-162 Excelsior Avenue, Castle Hill be forwarded to the Department of Planning and Environment for Gateway Determination.

**IMPACTS****Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

**The Hills Future - Community Strategic Plan**

The planning proposal will assist in the delivery of a 'modern local economy' through the provision of job opportunities that will serve the local community. The planning proposal encourages promotion of a 'vibrant community' by providing a service that will respond to child care needs within the Shire.

**RECOMMENDATION**

A planning proposal to amend Schedule 1 'Additional Permitted Uses' of The Hills Local Environmental Plan 2012 to permit a *child care centre* at 160-162 Excelsior Avenue, Castle Hill (Lots 1 and 2, DP 562533) be forwarded to the Department of Planning and Environment for Gateway Determination.

**ATTACHMENTS**

Nil