

To amend Wollongong LEP 2009

LOCAL GOVERNMENT AREA: Wollongong City Council

NAME OF DRAFT LEP: PP-2018/8 Child Care Facility, 4 Yenda Avenue, Bulli

ADDRESS OF LAND: 4 Yenda Avenue, Bulli NSW 2516 (Lot 105 DP 264639)



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Part 1 – Statement of objectives or intended outcomes

The objective of the Planning Proposal is to amend the Wollongong Local Environmental Plan 2009 (WLEP 2009) to permit, with consent, Centre-based Child Care Facility as an additional permitted use for Lot 105 DP 264639, 4 Yenda Avenue Bulli. The intended outcome is to allow for a Centre-based Child Care Facility which utilises the existing structure of the swim school facility.

Part 2 – Explanation of provisions

Statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed via a LEP:

- Amendment of the Wollongong LEP 2009 Schedule 1 Additional Permitted Uses to permit Centre-based Child Care Facility upon the site.

Part 3 – Justification**Section A – Need for the Planning Proposal****Q1: Is the planning proposal a result of strategic study or report?**

The Planning Proposal is not the result of a strategic study or report. The purpose of the Planning Proposal is to put in place an additional permissible use to enable a Centre-based Child Care Facility which utilises the existing structure of the swim school facility.

The Planning Proposal responds to the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the *Child Care Planning Guideline – Delivering quality child care for NSW, August 2017*, which identifies population growth is contributing to increasing demand for child care. While the Planning Proposal is not specifically identified, the Child Care Planning Guideline projects the demand for 2,700 additional long day care centres across NSW by 2036.

The planning proposal is the result of a Council resolution dated 23 September 2019. Other supporting documents submitted with the draft Planning Proposal request included:

- Bushfire Assessment (Peterson Bushfire 2018)
- Planning Proposal Report (Industry Planning Solution 2018)
- Additional Information Response (Industry Planning Solution 2018)

Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The purpose of the planning proposal is to facilitate the conversion the existing swim school structure into a child care facility. The strategic merit of the planning proposal has been considered, which included examining the surrounding land uses, environmental constraints and the need for

child care facilities to permit an additional use of a Centre-based Child Care Facility in the current zoning is deemed the best means of achieving the intended outcome for this parcel of land.

Section B – Relationship to strategic planning framework

Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Illawarra-Shoalhaven Regional Plan

The Planning Proposal is considered to be of minor significance and is not inconsistent with the with The Illawarra-Shoalhaven Regional Plan 2015. This proposal generally meets the objectives of Direction 3.3 and 5.1 of the plan.

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

This Planning Proposal is consistent with the SEPP, as it seeks to permit a Centre-based Child Care Facility to support the projected demand of 2,700 additional child care facilities across NSW and, with Wollongong's population increase projections; demand for child care facilities will continue to rise the LGA, as identified by NSW Department of Planning, Industry and Environment.

Illawarra Escarpment Strategic Management Plan 2015

The Planning Proposal is generally consistent with the Planning Principles contained within the Illawarra Escarpment Strategic Management Plan (2015) (IESMP 2015) and Illawarra Escarpment Lands Urban Review Strategy (2007). The Office of Environment and Heritage (OEH) did not object to the preliminary Planning Proposal and requested OEH be given the opportunity to review the final Planning Proposal, as required under s3.25 of the EP&A Act 1979.

Q4: Is the Planning Proposal consistent with a council's local strategy or other local strategic document (eg. Wollongong Community Strategic Plan)?

This Planning Proposal is consistent with to the delivery of Wollongong 2028 objective "Our natural environment, waterways and terrestrial areas are protected, managed and improved", under the Community Goal "*We value and protect our environment*". It specifically delivers on the following –

Community Strategic Plan	Delivery Program 2018-2021	Operational Plan 2018/2021
Strategy	3 Year Action	Operational Plan Actions
1.3.1 Manage land uses to strengthen urban areas and improve connectivity to train stations and key transport routes	1.3.1.1 Impacts from development on the environment are assessed, monitored and mitigated	1.3.1.1.1 Assess new developments and planning proposals for environmental impacts
		1.3.1.1.2 Engage with other tiers of government, the development/building industry and the broader community to achieve improved development outcomes.

Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

Refer to Table A – Checklist of State Environmental Planning Policies.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Refer to Table B – Checklist of Ministerial Directions.

Section C – Environmental, social and economic impact

Q7: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

Council's mapping has identified a number of threatened flora and fauna species within 1000m radius of the subject site. Threatened flora or fauna were not mapped upon the site or upon adjacent lots. In addition to the mapped threatened flora and fauna, the Endangered Ecological Community, Freshwater Wetlands on Coastal Floodplains (MU54) is an is mapped within 1000m of the site.

Native vegetation is mapped along the southern and northern boundaries. The site assessment identifies patches of Acacia Scrub (MU65a), Wet Sclerophyll Forest – Escarpment Blackbutt Forest – (Mu16) and weeds and exotics.

The Planning Proposal is not likely to impact upon any threatened flora and fauna species, the Endangered Ecological Community, or the identified Native vegetation, as the objective of the proposal is to allow for repurposing of the existing swim school facility building for a Centre-based Child Care Facility.

A site inspection was undertaken in October 2018 and identified several hollow-bearing trees within the stands of vegetation marked as high and moderate ecological value. These can provide potential habitat for a number of threatened species, and are proposed to be retained within the riparian area. No works are proposed in any vegetated areas.

Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

A number of studies were undertaken to address the site constraints in support of the Planning Proposal request. Below is a summary of the studies and findings:

Flooding

Council's mapping system indicates that the access driveway to the site is not located in any flood risk area. However, the Approximate PMF Flood Depths and Approximate 1%AEP Flood Depths identify that the driveway could be inundated during a flood event, as it is close to Woodlands Creek located to the north of the driveway stretching from the east to the west pass the driveway. This indicates that although the facility would not be flood affected, the evacuation route could be affected. It is anticipated that flood events would be of a short duration. Referral to NSW Office of Environment and Heritage (now Biodiversity and Conservation; Department of Planning, Industry and Environment) received no comment at the preliminary stage of the proposal, but would have further opportunity to comment should the Planning Proposal proceed to a "Gateway" determination. Should the additional permitted use be approved, any subsequent development application would need to be supported by a detailed assessment of flood study in accordance with WDCP Chapter E13 Floodplain Management.

The Planning Proposal was presented at the 7 August 2019 meeting of the Wollongong Local Planning Panel seeking advice from the WLPP, as required under legislation. The WLPP raised concern about flooding and requested a Flood Management Plan be submitted prior to public exhibition if the proposal obtains a "Gateway" approval.

Bushfire Assessment Report

A bushfire assessment was undertaken by Peterson Bushfire (2018) in accordance with *Planning for Bushfire Protection 2006* (PBP) and consisted of desktop analysis and a site inspection. Three areas of vegetation are mapped as bushfire hazards. These areas include:

- Primary vegetation area to the north and northwest of the site. It is identified as bushfire prone and classified as Escarpment Blackbutt Forest with rainforest understorey and is associated with the riparian corridor which traverses the northern portion of the site at a distance of 50m.
- Secondary area is on northeast along a tributary of Woodlands Creek, classified as 'low hazard' due to the narrow width (approximately 10m) and small area.
- Third area is the eastern portion of the site, with regrowth of native eucalypts and noxious weeds and is disconnected from the vegetation on the other portions of the site with a width less than 50m. Remnants are not mapped as bushfire prone vegetation on Council mapping, and are of 'low hazard'.

The bushfire assessment provided the following recommended mitigation measures to ensure suitability of part of the subject lands for the Special Fire Protection Purpose development:

- *Asset Protection Zones -*
 - *North: 50m – consists of cleared flood plain (60m required)*
 - *North-east: 50m – Consists of cleared area and access way (30m required)*
 - *East: 30m – weed infestation and understorey to be managed. (30m required)*
- *Proposed works on existing buildings to achieve BAL-12.5 requirements*
- *A static water supply of 10,000 be made available in accordance with PBP 2006*
- *Services and infrastructure to the site to comply Planning for Bushfire Protection 2006*

- *Access for firefighting operations to be constructed in accordance with the specifications of Section 4.1.3 (1) of Planning for Bushfire Protection 2006.*

The NSW Rural Fire Service (RFS) noted that Asset Protection Zones (APZs) conditioned with the special fire purpose development of the swim school facility (DA-2004/224) are to be complied with.

The RFS will be provided with further opportunities to comment at the development application and detailed subdivision stage.

The Planning Proposal was presented at the 7 August 2019 meeting of the Wollongong Local Planning Panel seeking advice from the WLPP, as required under legislation. The WLPP raised concern about bushfire and requested a Bushfire Management Plan be submitted prior to public exhibition if the proposal obtains a "Gateway" approval.

Geotechnical

Council' mapping system identified the southwestern portion of the site is landslip known area. The whole site and its locality are situated within landslip suspect area. The proposed child care facility is not situated within the landslip known area. It is considered that the unstable land will not preclude the opportunity to allow a centre-based child care facility use.

Foreshore Building Line

The lot is located within the Foreshore Building Line of Woodlands Creek. It is considered that the proposed location for child care centre is not situated within the area therefore there will be no impact to the environment within foreshore building line. Matters regarding the Foreshore Building Line will be required to be addressed should the Planning Proposal progress.

Traffic and Access

Access to the site and the proposed use will be utilising the existing driveway. It is considered that the impact on traffic generation and acoustic amenity is likely to increase. It is expected that the proposal will have less impact than the existing use (i.e. swim school). Should the additional permitted use be approved, any subsequent development application would need to be supported by a detailed assessment of traffic impacts, car parking, site servicing/manoeuvring and waste collection.

Q9: Has the planning proposal adequately addressed any social and economic effects?

An Aboriginal Heritage Information Management System (AHIMS) search was undertaken, with no recorded Aboriginal Heritage sites or Aboriginal places declared in or near the site.

The proposal provides the following social and economic benefits as a result of the additional use of a child care centre:

- Provides children care provision to the locality as currently there has very limited vacancies for children care facilities in the next few years.
- Having a new child care facility will not generate adverse economic impact on the child care industry.
- contributes to the short-term economic benefit of the locality, by providing employment opportunity.

Section D – State and Commonwealth interests**Q10: Is there adequate public infrastructure for the planning proposal?**

The site has access to all essential services.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council requests that Gateway determination nominates the State or Commonwealth authorities required for consultation. All identified authorities/stakeholders will be notified during the exhibition period.

The Gateway determination will stipulate the required consultation with public authorities. Pre Gateway consultation has occurred to date with the Roads Maritime Service, RFS, Office of Environment and Heritage (OEH), Department of Primary Industries – Water.

OEH, Department of Primary Industries – Water raised no objection to the proposal.

RFS raised no objection to the proposal, and requested any future development to provide an Asset Protection Zone as per the plan in the Bushfire Assessment report by Peterson Bushfire and as required under Special Fire Protection Purpose of DA-2014/244.

The Wollongong Planning Panel meeting dated 7 August 2019 acknowledged the growing population in the locality can support the demand for a child care centre. The Panel considered that the main issue is regarding flooding and bushfire. The Panel did not raise any concern for the intended land use of a child care centre. It is considered that the proposal is appropriate to provide the need of child care to support the increasing population.

Preliminary consultation has been carried out in July 2018 as part of the assessment of the draft Planning Proposal request and was referred to external referrals including Roads and Maritime Services, NSW Rural Fire Service, the Office of Environment and Heritage, Department of Primary Industries – Water, and relevant internal divisions of Council.

It is proposed that the following State authorities would be consulted following the Gateway determination:

- Roads and Maritime Services
- NSW Rural Fire Service
- Office of Environment and Heritage
- Department of Primary Industries – Water
- Sydney Water

Part 4 – Mapping

The draft Planning Proposal does not propose any mapping changes.

Part 5 – Community Consultation

Any Gateway determination will confirm community consultation requirements.

If the Planning Proposal is supported, Council requests that the Planning Proposal be exhibited for a period of 28 days and include:

- *Hard copies at Council's Administration building and relevant Libraries;*
- *Electronic copy on Council's website;*
- *Notification letters to surrounding and nearby property owners;*
- *Notification letters to relevant State agencies and other authorities nominated by the NSW Department of Planning, Industry and Environment.*

Part 6 – Projected Timeline

A primary goal of the plan making process is to reduce the overall time taken to produce LEPs. This timeline tentatively sets out expected timelines for major steps in the process. These timeframes are subject to change and are to be used as a guide only. The Minister may consider taking action to finalise the LEP if timeframes approved for the completion of the Planning Proposal are significantly or unreasonably delayed.

#	Action	Estimated Timeframe	Responsibility
1	Anticipated date of Gateway Determination	November 2019	Department of Planning, Industry and Environment
2	Anticipated completion of required technical studies	Not Applicable	Not Applicable
3	Government agency consultation	February 2020	Council
4	Public exhibition period	February 2020	Council
5	Date of Public Hearing	Not Applicable	Not Applicable
6	Consideration of submissions	March 2020	Council
7	Assessment of proposal post-exhibition	April 2020	Council
8	Report to Council	May 2020	Council
9	Final Planning Proposal prepared	May 2020	Council
10	Submission to Department for finalisation of LEP	May 2020	Council
11	<i>Anticipated date RPA will make the LEP</i>	June 2020	Council
12	Anticipated date Council will forward final Planning Proposal to Department for notification	June 2020	Council
13	Anticipated date LEP will be notified	July 2020	<i>Parliamentary Counsel and Department</i>

Table A - Checklist of State Environmental Planning Policies

State Environmental Planning Policy		Compliance	Comment
SEPP No. 1	Development Standard	Not Applicable	Not Applicable
SEPP No. 19	Bushland in Urban Areas	Does not apply to Wollongong	Not Applicable
SEPP No. 21	Caravan Parks	Not Applicable	Not Applicable
SEPP No. 33	Hazardous and Offensive Development	Not Applicable	The proposal will not involve hazardous or Offensive development.
SEPP No. 36	Manufactured Home Estates	Not Applicable	Not Applicable
SEPP No. 44	Koala Habitat Protection	Not Applicable	The site is not Koala Habitat
SEPP No. 47	Moore Park Showground	Does not apply to Wollongong	Not Applicable
SEPP No. 50	Canal Estate Development	Not Applicable	Not Applicable
SEPP No. 55	Remediation of Land	Consistent	The land has been filled but is not identified as contaminated land.
SEPP No. 64	Advertising and Signage	Not Applicable	Not Applicable
SEPP No. 65	Design quality of residential flat development	Not Applicable	Not Applicable
SEPP No. 70	Affordable Housing (revised schemes)	Does not apply to Wollongong	Not Applicable
SEPP	Coastal Management 2018	Not Applicable	Site is not located within the Coastal Zone.
SEPP	Housing for Seniors or People with a Disability 2004	Not Applicable	Not Applicable
SEPP	Building Sustainability Index: BASIX 2004	Not Applicable	Not Applicable
SEPP	Kurnell Peninsular 1989	Does not apply to Wollongong	Not Applicable
SEPP	Sydney Region Growth Centres 2006	Does not apply to Wollongong	Not Applicable
SEPP	Mining, Petroleum Production and Extractive Industries 2007	Not Applicable	Not Applicable
SEPP	Infrastructure 2007	Not Applicable	Not Applicable
SEPP	Miscellaneous Consent Provisions 2007	This SEPP relate to temporary structures and to ensure demolition or erection of a building,	While not specifically relevant to this Planning Proposal, this SEPP does apply to all areas in NSW.

State Environmental Planning Policy		Compliance	Comment
		subdivision of land requires development consent	
SEPP	Kosciuszko National Park – Alpine Resorts 2007	Does not apply to Wollongong	Not Applicable
SEPP	Affordable Rental Housing 2009	Not Applicable	Not Applicable
SEPP	Western Sydney Employment Lands 2009	Does not apply to Wollongong	Not Applicable
SEPP	Exempt and Complying Development Codes 2008	Not Applicable	Not Applicable
SEPP	Western Sydney Parklands 2009	Does not apply to Wollongong	Not Applicable
SEPP	Penrith Lakes Scheme	Does not apply to Wollongong	Not Applicable
SEPP	State and Regional Development 2011	Not Applicable	Not Applicable
SEPP	State Significant Precincts	Not Applicable	Not Applicable
SEPP	Sydney Drinking Water Catchment 2011	Not Applicable	Not Applicable
SEPP	Three Ports 2013	Not Applicable	Not Applicable
SEPP	Urban Renewal 2010	Does not apply to Wollongong	Not Applicable
SEPP	Educational Establishments and Child Care Facilities 2017	Generally consistent	The Planning Proposal is generally consistent with the SEPP
SEPP	Concurrences 2018	Not Applicable	Not Applicable
SEPP	Gosford City Centre 2018	Not Applicable	Not Applicable
SEPP	Primary Production and Rural Development 2019	Not Applicable	Not Applicable
SEPP	Vegetation in Non-Rural Areas 2017	Not Applicable	Vegetation removal is not proposed as part of the Planning Proposal
Deemed SEPPS(former Regional Plans)			
Illawarra REP 1	Illawarra	Repealed within Wollongong	Not Applicable
Illawarra REP 2	Jamberoo	Does not apply to Wollongong	Not Applicable

State Environmental Planning Policy		Compliance	Comment
Greater Metropolitan REP No.2	Georges River Catchment	Not Applicable	Not Applicable

Table B - Checklist of Section 9.1 Ministerial Directions

Ministerial Direction		Comment
1. Employment and Resources		
1.1	Business and Industrial Zones	Not Applicable
1.2	Rural Zones	Not Applicable
1.3	Mining, Petroleum Production and Extractive Industries	Not Applicable
1.4	Oyster Aquaculture	Not Applicable
1.5	Rural Lands	Not Applicable
2. Environment and Heritage		
2.1	Environment Protection Zone	The objective of this direction is to protect and conserve environmentally sensitive areas. The planning proposal seeks only to amend Schedule 1 of WLEP to allow additional use on zone E3 Environmental Management on the subject site as a child care centre. This will not affect the environmental standard of the site as the proposal does not alter the existing site condition, and the current planning provisions applies to the site will remain unchanged.
2.2	Coastal Protection	Not Applicable
2.3	Heritage Conservation	Not Applicable
2.4	Recreation Vehicle Areas	Not Applicable
3. Housing, Infrastructure and Urban Development		
3.1	Residential Zones	Not Applicable
3.2	Caravan Parks and Manufactured Home Estates	Not Applicable
3.3	Home Occupations	Not Applicable
3.4	Integrating Land Use and Transport	4 Yenda Avenue, Bulli is well served and accessible by road and pedestrian footpaths.
3.5	Development Near Licensed Aerodromes	Not Applicable
3.6	Shooting Ranges	Not Applicable
4. Hazard and Risk		
4.1	Acid Sulfate Soils	Not Applicable – according to Council's record, this site is not situated within any acid sulfate soil classified land.
4.2	Mine Subsidence and Unstable Land	Council's Wollongong DCP – Chapter E12-Geotechnical Assessment of Slope Instability. The previous geotechnical constraints undertaken for the swim school DA has reviewed the matter. Council considered that initial geotechnical report may not be required as the proposal does not seek to alter the existing site conditions and intends to facilitate

		development in areas of the site that are already developed.
4.3	Flood Prone Land	<p>Council's Wollongong DCP – Chapter E13 Floodplain Management applies to the land as it is part of the Hewitt's Creek Floodplain.</p> <p>Considering that the proposed location of the child care centre is not located within any flood affected area as identified by Council's mapping system, it is considered that flooding will not affect the proposed child care facility, despite the existing driveway to the proposed child care facility is situated through the Flood Planning Area and floodway.</p> <p>Reliable access for pedestrians/ vehicles can be provided from the building commencing at a minimum level equal to the lowest habitable floor level to an area of refuge above the PMF level. Adequate flood warning systems, signage and exits can be available to allow safe and orderly evacuation without increased reliance upon the SES or other authorised emergency services personnel.</p> <p>Should the additional permitted use be approved, any subsequent development application would need to be supported by a detailed assessment of flood study in accordance with WDCP Chapter E13 Floodplain Management.</p>
4.4	Planning for Bushfire Protection	<p>Council's Wollongong DCP – Chapter E16- Bushfire Management. As development applications are lodged or assessments are undertaken under Part 5 of the Environmental Planning and Assessment Act 1979 for routine Council operational activities, relevant technical studies will be completed.</p> <p>The Bushfire Assessment Report prepared by Peterson Bushfire concluded that the location of the facility is in low bushfire risk. It also concluded that the existing road is adequate to serve as an evacuation route. Fire Safety and Evacuation Plan will form part of a future development application.</p>
5. Regional Planning		
5.1	Implementation of Regional Strategies	Not applicable (see 5.10)
5.2	Sydney Drinking Water Catchments	Not Applicable
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable to Wollongong
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to Wollongong
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable to Wollongong
5.8	Second Sydney Airport: Badgerys Creek	Not applicable to Wollongong
5.9	North West Rail Link Corridor Strategy	Not applicable to Wollongong

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5.10	Implementation of Regional Plans	Consistent- the Planning Proposal is consistent with the objectives of the Illawarra-Shoalhaven Regional Plan (November 2015), and Illawarra Escarpment Strategic Management Plan (2015)
6. Local Plan Making		
6.1	Approval and Referral Requirements	Not Applicable – the Planning Proposal does not introduce new concurrence or designated development provisions
6.2	Reserving Land for Public Purposes	Not Applicable
6.3	Site Specific Provisions	The proposal will introduce a site specific provision. No other amendments are proposed and the proposal will not result in any unnecessarily restrictive planning standards
7. Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Not Applicable
7.2	Implementation of the Greater Macarthur Land Release Investigation	Not Applicable
7.3	Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4	Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable
7.5	Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.6	Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable