

CL22.524 Proponent Planning Proposal Request - 17 Croobyar Road, Milton - Centre Based Child Care Facility

HPERM Ref: D22/361030

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Reason for Report

The purpose of the report is to present a proponent-led Planning Proposal (PP) request for consideration of support. The request relates to the site of the former Shoalhaven Anglican School which is being redeveloped for the Budawang School for Specific Purposes (SSP).

The PP request seeks to enable the existing childcare centre to be relocated to an existing building on another part of the site.

Recommendation

That Council:

1. Support the Planning Proposal (PP) request to amend Shoalhaven Local Environmental Plan 2014 (SLEP 2014) to include an additional permitted use for 'centre-based childcare facility' under Schedule 1 for Lot 200 DP 1192140.
2. Prepare and submit the required PP documentation to the NSW Department of Planning and Environment for Gateway determination
3. Note in the Gateway request that public exhibition is not considered necessary in this instance given the minor nature of this proposal and history of the site.
4. Expedite the matter as a 'minor' proponent-initiated Planning Proposal and only report back to Council if necessary prior to finalising the LEP amendment.
5. Apply fees in accordance with Council's adopted Fees and Charges for a 'minor PP'.
6. Advise the Proponent and relevant stakeholders of this resolution.

Options

1. Support the PP request to include an additional permitted use 'centre-based child care facility' in the LEP for the subject site.

Implications: Would possibly enable the existing childcare facility, run by Big Fat Smile in the north-eastern corner of the site to be relocated within the site (subject to approval) after the recently approved Budawang School development (SSD-8845345) is completed. The PP has strategic and site merit and as this option is favoured.

2. Not support the PP request.

Implications: The site is currently zoned *RU1 Primary Production* under the *Shoalhaven Local Environmental Plan (LEP) 2014*. The site has had a number of development consents granted for educational uses and ancillary uses, and the existing childcare centre operates under 'existing use rights' as centre-based childcare is prohibited in the RU1 zone.

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If the PP request is not supported, the current childcare facility will not be able to continue on the subject land because the 'existing use rights' only relate to the current building. An alternative longer-term option would be to consider rezoning the subject land to *SP2 Educational Establishment* as part of a future housekeeping or broader Planning Proposal. However, the timing of this would be uncertain and there is a need to help with a timelier resolution of this issue.

Background

The proponent Mecone Pty Ltd, has been engaged by the NSW Department of Education (landowner) to assist it with this PP.

Subject Land

The subject land comprises Lot 200 DP 1192140 (17 Croobyar Road), Milton. The subject land is identified in **Figure 1** below.



Figure 1 - Subject land aerial photo

Existing development on subject land

The subject land is comprised of the currently vacant former Shoalhaven Anglican School which closed in 2017, and the recently approved Budawang School development which is now under construction. The site is owned by the NSW Department of Education.

Built elements on the subject land include an internal road, car park, a number of one to two-storey buildings located on the eastern side of the lot, with a sports field located on the south-west portion of the lot. The buildings of the former school are currently vacant. The existing childcare facility (see **Figure 2**) is located in the north east corner of the subject land.

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Figure 2 - Existing childcare facility on subject land viewed from Croobyar Road. Note temporary barricades are related to roadwork on Croobyar Road.

The subject land is irregular in shape and has a total area of approximately 7.76 ha. It slopes gently to the west and is generally clear of vegetation with the exception of the south and south-west boundary which has a number of mature trees.

Shoalhaven Local Environmental Plan 2014 (SLEP 2014)

The subject land is currently zoned *RU1 Primary Production* under the *Shoalhaven LEP*, see **Figure 3**. The RU1 zone is a ‘closed zone’ and a ‘centre-based childcare facility’ is currently prohibited.

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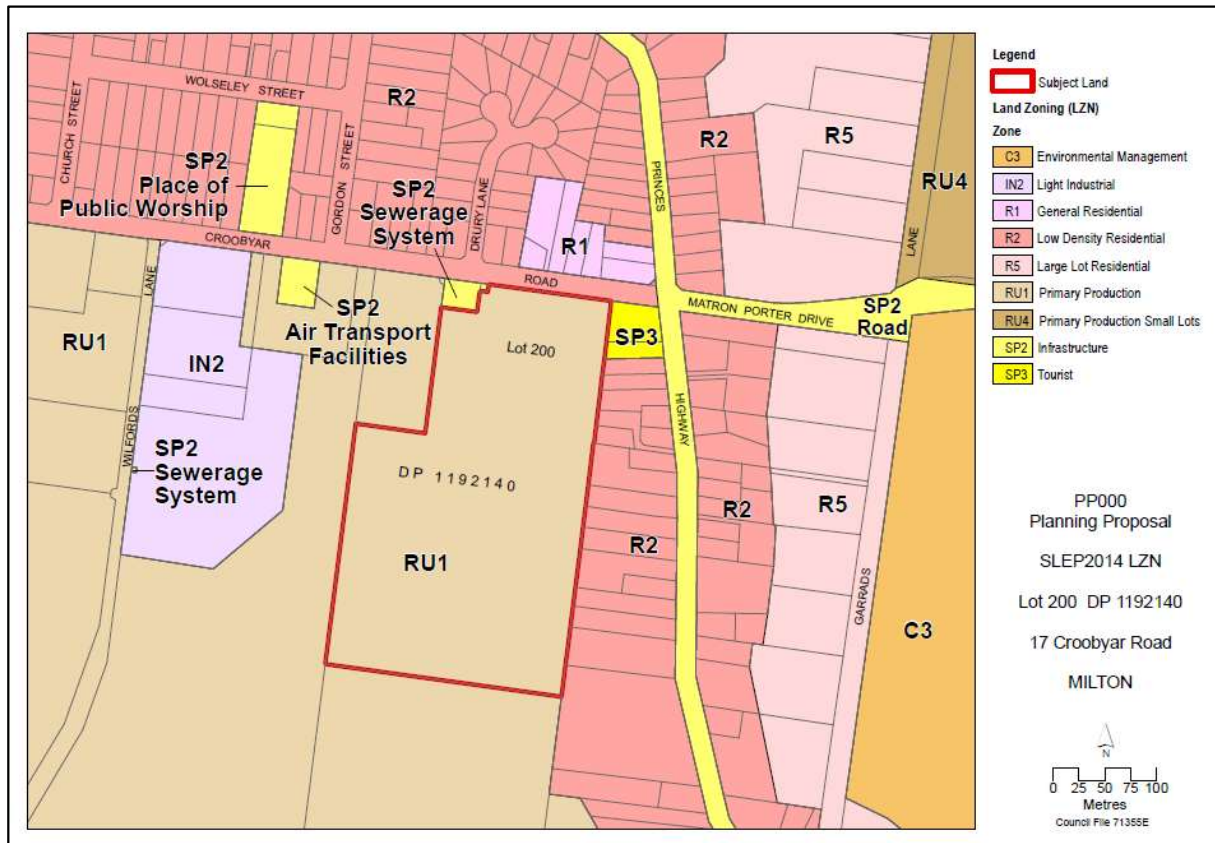


Figure 3 - Current zoning under SLEP 2014

History of the RU1 Zoning and Educational Establishments on the subject land

The subject land was previously zoned Rural 1(a) Rural under the earlier Shoalhaven LEP 1985 (SLEP 1985) as shown on **Figure 4**. This LEP was in force at the time the first education establishment was approved on the subject land in 1990. At the time the 1(a) zoning enabled 'educational establishments' (and ancillary developments) and as such a number of consents were issued in this regard.

In October 1990, a consent was issued for Stage 1 of a Primary and Secondary School which included the use as an educational establishment and a primary classroom. In February 1991, another consent was issued to establish a childcare centre and an extended hours preschool. Over the course of December 1991 to 2016, a number of consents and building permits were issued for the building of a number of buildings and associated infrastructure which included, but not limited to the following:

- School library / canteen;
- Educational establishment;
- Classrooms, learning centre and toilet facilities;
- School extensions (additional classrooms);
- Sporting field, retaining wall and associated works; and
- Advertising sign for Shoalhaven Anglican School.

The most recent educational establishment which operated on the site was the Shoalhaven Anglican School which announced the closure of the Milton campus in 2016. The Department of Education have since purchased the site and are the current owners.

The most recent approval on the subject land was for the construction of the Budawang School for Specific Purpose, in September 2021.

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In summary, Council has previously issued a number of consents over the subject land for development associated with educational establishments, their ancillary structures and uses, notwithstanding the rural zoning.

Proponent's Planning Proposal Request

The proponent's PP request was formally received on 5 August 2022, accompanied by a [Planning Proposal Report](#) containing the following appendices:

- Site plan showing the approved Budawang School development and the proposed new childcare centre location – see **Figure 4**.
- New childcare centre floor plan
- Bushfire Protection Assessment
- Traffic Impact Statement
- Flood Assessment
- Ecological Assessment
- Ministerial Directions Checklist

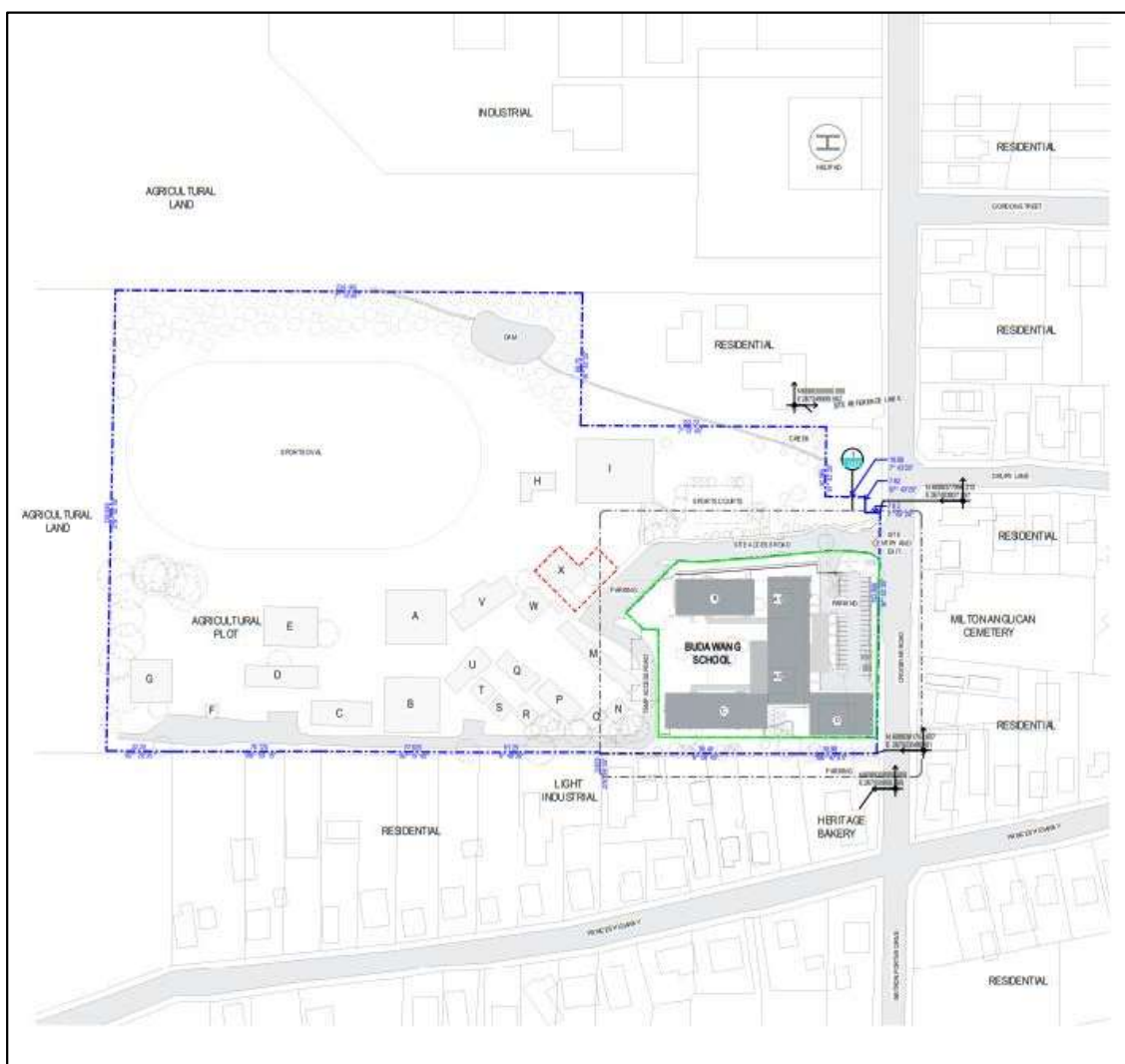


Figure 4 – Site location plan from the proponent's PP showing the approved Budawang School development and proposed new location of the childcare centre (subject to separate approval) depicted by red dashed line ('Building X')

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The PP request seeks to amend the LEP to allow an additional permitted use under Schedule 1 for a 'centre-based childcare facility' on the subject land.

The PP Report states that the objectives and intended outcomes are:

- *To enable the continued operation of an existing childcare facility on the site, albeit in a different location; and*
- *To facilitate the delivery of a high-quality childcare facility that responds to the site circumstances and maintains the rural character of the site with minimal visual or amenity impact on the surrounding area.*

The PP Report provides an extensive planning and approvals history which relates to varying development applications made and approved on the site in relation to the primary and secondary school, and the existing childcare centre.

Preliminary Assessment

The NSW Government's [LEP Making Guideline](#) (the Guideline) was released in December 2021. Council's Planning Proposal Guidelines will be reviewed in coming months to ensure it is consistent with the new Guideline which contains more detailed criteria than was provided in the preceding guidelines. The assessment undertaken by Council staff focuses primarily on consistency with the Guideline.

The Guideline states that a PP must have strategic merit and site merit to be progressed.

Strategic merit is the degree to which a proposal is consistent with the NSW strategic planning framework, which includes a range of NSW Government and endorsed Council documents, and Ministerial directions issued under section 9.1 of the NSW *Environmental Planning and Assessment Act, 1979*.

Site merit is the site-specific environmental, social, and economic impacts/cost/benefits of the proposal.

Preliminary assessments of strategic and site merit are provided below.

Strategic Merit

A preliminary strategic merit assessment is provided in the proponent's PP Report. The following overarching strategic documents have been considered:

- Illawarra Shoalhaven Regional Plan 2041 (ISRP)
- Shoalhaven 2040: Our Strategic Land-use Planning Statement (LSPS)
- (the then) Draft Shoalhaven 2032 Community Strategic Plan (CSP)

On review the request is considered broadly consistent with each of these strategic documents given its relatively minor nature involving the relocation of a use within an existing developed site.

The request is also considered to be generally consistent with the following Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act:

- 1.1 *Implementation of Regional Plans*
- 1.4 *Approval and Referral Requirements*
- 1.5 *Site Specific Provisions*
- 3.1 *Conservation Zones* - not anticipated to impact on any local biodiversity.
- 3.2 *Heritage Conservation* - adjacent European heritage items are unlikely to be impacted as no changes to build form are proposed.

- 4.1 *Flooding* – the advice provided states that the proposed building is above the Flood Planning Level, unaffected by peak flows of the 1% AEP event, and therefore generally consistent with this Direction.
- 4.3 *Planning for Bushfire Protection* - the future Development Application will need to demonstrate compliance with relevant Bush Fire Protection requirements. The RFS will be consulted prior to public exhibition in accordance with this Direction.
- 4.4 *Remediation of Contaminated Land* - the future Development Application will need to demonstrate compliance with requirements of *State Environmental Planning Policy (Resilience and Hazards) 2021*.
- 4.5 *Acid Sulfate Soils*
- 5.2 *Reserving Land for Public Purposes*
- 9.1 *Rural Zones*
- 9.2 *Rural Lands* - the proposal seeks to continue an existing use elsewhere on an already developed site. No adverse effects, or additional impacts are anticipated to occur to rural land uses as part of the proposal.

Preliminary Site Merit

The Guideline includes the following site merit considerations:

- the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards)
- existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates
- services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

Potential impacts on adjoining properties

The proposed additional permitted use would have minimal impacts on neighbouring properties due to the intention to relocate the existing child-care facility to an existing building at a different location of the site. It is stated that the intent of the PP is to enable to continued operation of an important social service while having no notable adverse environmental impacts, and negligible impacts on adjoining properties. Any potential impacts, such as traffic, would be assessed as part of the development application process.

Internal Feedback - Shoalhaven Water

- Noted that the rising main is Asbestos containing material and cannot be constructed over due to the criticality of the asset. This main may be upgraded in the future due to the age of the asset and issues arising from asbestos materials.
- Sewer and water supplies are currently connected to the site, and these should be sufficient to support the proposed rezoning. The following specific information is provided.

Water

Assessment of the required and available pressures will need to be undertaken by the developer and an application for a pressure certificate will be required should the development proceed as water pressure in this area can be problematic due to the ground levels and the proximity of the site to the water treatment plant.

Booster pumps for firefighting or domestic other purposes cannot be directly connected to water supply mains.

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Sewer

Land on western side will not be able to be served by means of a gravity sewer connection. These areas may need to consider pressure sewer.

The existing system should have capacity to support the proposed development if it is like for like. Any upgrades to the facility may require review at the time of application.

Section 64 Contributions.

May be applied. Credit for any approved development will be applied should the new facility be of similar capacity as the existing.

Conclusion

In summary, the proposal has both strategic and site merit, noting that:

1. A PP is only necessary because the 'existing use rights' that apply to the current childcare centre in the north-eastern corner of the site do not apply to other parts of the site; and
2. The proponent proposes to relocate the childcare centre to an existing building (refer to 'Building X' in **Figure 4**).

The proposal will assist in providing a continued educational establishment to cater for Shoalhaven's growing, and diverse communities. The PP request is also consistent with Council's current Planning Proposal guidelines on the basis it is minor in nature, for reasons outlined above.

As such it is recommended that the PP request be supported.

Community Engagement

Notification of the request was sent to adjoining landowners, the Milton CCB and Business Milton-Ulladulla (chamber of commerce). No submissions were received.

A development application (DA) will need to be assessed and approved to enable the childcare centre to be relocated to the existing building (Building X). Given that a childcare centre has operated on the site for several years and that the community will be consulted as part of the DA process, there is a strong argument that public exhibition of the PP is unnecessary in this instance.

Financial Implications

The PP is proposed to be managed as a minor PP, to be funded by the proponent on a 100% cost-recovery basis.

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