

**ITEM 9 DRAFT PLANNING PROPOSAL 4 YENDA AVENUE BULLI PP-2018/8**

A draft Planning Proposal request has been submitted for 4 Yenda Avenue, Bulli which seeks to enable a Centre-based Child Care Facility on the property. The Centre-based Child Care Facility would be made permissible through an amendment to Schedule 1 as an additional permitted use on the site. The proposal has been reviewed by the Wollongong Local Planning Panel which supported the proposal, but raised concern about evacuation of children in the event of a flood or bushfire. This issue is addressed in the report.

This report presents the preliminary assessment of the draft Planning Proposal request and recommends that Council resolve to submit a draft Planning Proposal to the NSW Department of Planning, Industry and Environment seeking a Gateway Determination to enable public exhibition.

### RECOMMENDATION

- 1 A draft Planning Proposal be submitted to the NSW Department of Planning, Industry and Environment for 4 Yenda Avenue (Lot 105 DP 264639) Bulli seeking a Gateway determination to amend Schedule 1 of Wollongong Local Environmental Plan 2009 to permit a Centre-based Child Care Facility.
- 2 A detailed Flood Management Plan and Bushfire Management Plan be submitted by the applicant if the proposal obtains a "Gateway" approval and prior to public exhibition.
- 3 The draft Planning Proposal, including the Flood Management Plan and Bushfire Management Plan be exhibited for 28 days.
- 4 The Department of Planning, Industry and Environment be requested to issue authority to the General Manager to exercise plan making delegation in accordance with Council's resolution of 26 November 2012.

### REPORT AUTHORISATIONS

Report of: David Green, Manager City Strategy (Acting)

Authorised by: Chris Stewart, Director Planning and Environment - Future City and Neighbourhoods (Acting)

### ATTACHMENTS

- 1 Site Map
- 2 Wollongong Local Planning Panel Recommendation

### BACKGROUND

In July 2018 a Planning Proposal request was submitted by the landowner for 4 Yenda Avenue, Bulli (Lot 105 DP 264639). The site is approximately 2.36 hectares in size and is currently zoned E3 Environmental Management. The site is bounded by properties zoned E3 Environmental Management to the north, east and west, and R2 Low Density Residential to the south (Attachment 1).

The site contains a dwelling house, farm sheds and a swim school facility with car parking. The swim school was approved in 2004 (DA-2004/224). Native vegetation is present along the southern and northern boundaries. Woodlands Creek is located on the low lying northern portions of the site. The site contains a vegetated watercourse. The site assessment identified patches of Acacia Scrub (MU56a), Wet Sclerophyll Forest – Escarpment Blackbutt Forest – (MU16) and weeds and exotics. No threatened flora species are recorded on the site.

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

## PROPOSAL

The draft Planning Proposal request includes an indicative floor plan for the Centre-based Child Care Facility which utilises the existing structure of the swim school. To facilitate the proposed development, the draft Planning Proposal request seeks to amend Schedule 1 of the Wollongong Local Environmental Plan 2009 to include an additional permitted use for Lot 105 DP 264639, 4 Yenda Avenue Centre-based Child Care Facility.

Access to the site is proposed to remain via a driveway from Yenda Avenue which is accessible from George Road. Full urban reticulation services (power, gas, sewer, water and telecommunications) are provided to the site.

The following key issues are relevant to the evaluation of the Planning Proposal request -

### **Traffic generation**

A capacity assessment of the existing road network to accommodate the additional traffic generated by the new development has not been conducted. However, the proposed new development is expected to 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. Any proposed access to the site would need to comply with Australian Standards AS2890.1 and Wollongong Development Control Plan 2009 to provide adequate grades, widths and safe sight distances.

### **Consistency with Illawarra Escarpment Strategic Management Plan 2015**

The Planning Proposal request is generally consistent with the Planning Principles contained within the Illawarra Escarpment Strategic Management Plan (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 Environmental Planning & Assessment Act 1979.

### **Bushfire**

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. The assessment of the site identified three areas of vegetation that are mapped as bushfire hazards.

The primary vegetation area to the north and north-west of the site is the primary bushfire hazard area and is identified as bushfire prone. The primary threat area is vegetation 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. The second area of vegetation is on the north-east, associated along a tributary of Woodlands Creek, the plantings are classified as 'low hazard' due to the narrow width (approximately 10m) and small area. The plantings are situated on the floodplain of Woodlands Creek. The third area is the eastern portion of the site with regrowth of native eucalypts and noxious weeds, the stands are disconnected from the vegetation on the other portions of the site and are no wider than 50m. The remnants are not mapped as bushfire prone vegetation on Council mapping, and are classified as '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) raised no objection to the proposal during the preliminary notification period, however 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 APZs recommended by Peterson Bushfire (2018) are considered to be satisfactory with regard to the conditions of DA-2004/224. The RFS will be provided with further opportunities to comment at the development application and detailed subdivision stage.

The Wollongong Local Planning Panel raised concern about bushfire risk and requested the preparation of a detailed Bushfire Management Plan.

### **Flooding**

The access driveway to the site passes close to Woodlands Creek and could be inundated during a flood event. Although the facility would not be affected, the evacuation route could be affected. It is anticipated that flood events would be of a short duration. NSW Office of Environment and Heritage (now Biodiversity and Conservation; Department of Planning, Industry and Environment) had 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.

The Wollongong Local Planning Panel raised concern about flooding and requested the preparation of a Flood Management Plan.

### **Geotechnical**

The site is mapped as being subject to suspected land instability. Any subsequent development application requiring excavations would be required to submit geotechnical advice indicating no adverse impacts to the site, site conditions, surrounding development or environment.

### **Heritage**

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 does not seek to alter existing site conditions.

No European or Cultural heritage items are located on or near the site. The proposal intends to utilise existing developed areas of the site. The proposal is considered to not impact upon any heritage items or items of cultural significance.

### **Foreshore Building Line**

The lot is identified as being located within the Foreshore Building Line of Woodlands Creek. However, the building for the child care centre is located outside of this area. Furthermore, the building is connected to potable water, sewerage and stormwater services. Therefore, it is unlikely any additional impacts upon the environment within foreshore building will occur as a result of the proposed amended use to the site. Matters regarding the Foreshore Building Line will be required to be addressed should the Planning Proposal progress.

### **Visual Impact**

The proposed development is to be located within an existing approved structure upon the site. Furthermore, the Planning Proposal does not seek to intensify land use upon the site or impact upon the existing vegetation. The visual impact has been considered in relation to the existing residential setting south of the lot and being situated within a depression in the lower reaches of the escarpment. No additional or negative visual impacts are likely to occur from the additional permitted use upon the site within the existing building. However, potential visual impact on the site will be considered at the development application stage with respect to the principles and strategies outlined in the IESMP (2015).

## CONSULTATION AND COMMUNICATION

Preliminary consultation was carried out in July 2018 as part of the assessment of the draft Planning Proposal request, which involved referrals to 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.

State Authority comments provided on the Planning Proposal request were as follows -

| Issues Raised   | Council Officer Response |
|---|--------------------------|
| <b>NSW Rural Fire Service (RFS):</b><br>No objection to the proposed rezoning. Future development will be required to provide Asset Protection Zones as per the plan in the Bushfire Assessment report prepared by Peterson Bushfire and as required under previous Special Fire Protection Purpose development approval under DA-2014/244. | Noted.                   |
| <b>Office of Environment &amp; Heritage (OEH):</b><br>Did not object to the preliminary Planning Proposal and will comment should the Proposal progress   | Noted.                   |
| <b>Department of Industries – Natural Resources Access Regulator (Previously Water NSW):</b><br>Raised no objection to the proposal.  | Noted.                   |

Three community submissions received following the preliminary notification of the draft planning proposal were as follows -

| Concern   | Council Comment  |
|---|--|
| 1 Three submissions were concerned about Traffic, Parking and Pedestrian impacts associated with a Centre-Based Child Care Facility | <p>The site is accessed from Yenda Avenue which joins George Avenue. George Avenue is a no through road which services a residential area from Lawrence Hargrave Drive to the escarpment. The existing street network is of a typical residential street design and is considered to adequately service the residential and other existing uses within the locality.</p> <p>The site is considered to be able to support the existing use of a residence and a swim school facility with access gained from Yenda Avenue. The proposal to permit an additional permitted use of a Centre-base Child Care Facility with indicative plans to convert the swim school building to a child care centre would not intensify existing traffic movements or parking requirements on the site.</p> <p>Currently the site supports an approximate maximum of 346 movements on an average weekday in its use of a swim school and residence. Approximate calculations for the indicative plans of a Child Care Centre would involve an approximate maximum of 160 movements on an average weekday. The site would therefore be reducing overall approximate average daily traffic movements.</p> <p>Parking and pedestrian access are considered to be able to be supplied and the site is considered to be able to comply with Council, RFS and Australian Standards for parking, access and evacuations.</p> <p>It is noted that the specific development requirements relating to a Centre-base Child Care Facility are considered during a development application. The planning proposal stage is responsible for determining the sites suitability for supporting uses, and as such it is considered that the site and locality can support the traffic, parking and pedestrian access for a Centre-based Child Care Facility.</p> |

| Concern   | Council Comment   |
|---|---|
| <p>2 Two submissions were concerned about potential noise impacts on surrounding residential area</p>         | <p>The noise generated on the site as part of the existing use is considered to be mitigated within the buildings and with the appropriate screening on the southern boundary of the site. The existing use of the site is considered to create a greater level of noise than a Child Care Centre potentially would upon the adjacent E3 Environmental Management zoned land. Child Care Centres of all types are permissible and encouraged within residential areas, and therefore it is not considered to be inappropriate for the site.</p> <p>It is noted that noise impacts associated with a specific development are not formally considered under the assessment of a planning proposal – with more detailed consideration and assessment taking place during the development application stage.</p> |
| <p>3 One submission was concerned about hours of Operation, and impact upon surrounding residents</p>         | <p>The site currently hosts a swim school facility which operates between 7am and 6.30pm on weekdays and 7am to 12pm on Saturdays. The planning proposal application was accompanied by an indicative hours of operation plan which indicates weekday operations from 7am till 6pm.</p> <p>The proposal currently under assessment does not formally consider the hours of operation, however the indicative hours of operation are similar to the existing use and existing hours of operation.</p> <p>The proposal is not considered to be inappropriate for the locality due to the permissibility of Child Care Centres within adjoining residential zones, which allows similar and in some instances more intensive hours of operation than indicated within this proposal.</p>                         |
| <p>4 One submission was concerned about health and Safety of Children within close proximity to bushlands</p> | <p>The health and safety of children is considered as part of the assessment of a development application. It is considered that the site would be able to cater for the health and safety of the children within a child care facility.</p> <p>The NSW RFS has indicated in previous approvals for the site that the site is capable of providing compliant and safe access from the site in the event of a bushfire. The access road on the site was subject to a detailed flood and stormwater analysis which indicated that the road is not subject to flooding, and therefore evacuation is possible at flood planning levels.</p>   |
| <p>5 One submission was concerned about the impact on aesthetic value of adjoining land and subject site</p>  | <p>The proposal under assessment cannot determine impacts on the aesthetic value of land.</p> <p>The indicative proposal however is to utilise the existing buildings on the site, with alterations (Children's playground) proposed on the northern aspect which is not visible from any adjoining properties.</p>   |
| <p>6 One submission questioned the legality of buildings and zonings</p>                                      | <p>A desktop assessment and site inspection determined that the buildings on the site have relevant approvals and have been constructed in accordance with their respective approvals.</p> <p>The site is zoned E3 Environmental Management, the planning proposal has been lodged to include a Centre-based Child Care Facility in the Additional Permitted Use Schedule 1 of the Wollongong Local Environmental Plan 2009 which allows a use not specified in the permissible uses for a specific zone on an specified site(s).</p>   |
| <p>7 One submission was concerned about overdevelopment of the site</p>                                       | <p>The existing swim school facility is proposed to be reused for the child care facility, thus not requiring any further construction on the site.</p> <p>The sites zoning and site conditions permit development, as such the proposal site is capable of facilitating the existing development on the site.</p> <p>Further consideration to existing site conditions and development on the site in relation to further construction is appropriately considered during the development application stage.</p>   |

| Concern  | Council Comment  |
|--|--|
|  | The proposal is not considered to be inappropriate in this regard.   |
| 8 One submission was concerned about evacuation of site in the event of bushfire | <p>The evacuation of the site during a bushfire has been considered as part of previous approvals on the site, and within this application. The proposal is considered to adequately address concerns for evacuation management. Further details and specific evacuation plans are required at the Development Application stage.</p> <p>The planning proposal assessment requires that the site is capable of facilitating the development. The NSW RFS was consulted as part of the preliminary notification of the planning proposal, and identified the use as a Special Fire Protection Purpose development. It was noted by the NSW RFS that the site has a previous approval for a Special Fire Protection Purpose development (swim school), and as such did not object to the planning proposal subject to previous approvals conditions being complied with.</p> <p>The Wollongong Local Planning Panel was also concerned about bushfire risk. The Panel noted that with the swim school that parents and children come for a lesson then leave. Whereas with a child care centre, the children are on-site all day. The Panel was concerned that evacuation of the children.</p> |

## WOLLONGONG LOCAL PLANNING PANEL RECOMMENDATION

This report was considered by the Wollongong Local Planning Panel on 7 August 2019. The panel noted concerns over access via land impacted by flood and bushfire constraints. The Panel have recommended that a Flood Management Plan and Bushfire Management Plan to be submitted prior to the proposal being sent to the NSW Department of Planning, Industry and Environment for a “Gateway” determination. The Panel’s advice is at Attachment 2.

While the Wollongong Local Planning Panel recommends that a detailed Flood Management Plan and Bushfire Management Plan be submitted prior to “Gateway” determination, the intent of a “Gateway” determination is to determine if the proposal warrants further consideration and identifies the further work or studies required prior to exhibition. In this case, Council could resolve to send the Planning Proposal to “Gateway” with a recommendation that the further studies are to be completed if the NSW Department of Planning, Industry and Environment issues a “Gateway” approval and prior to exhibition.

## PLANNING AND POLICY IMPACT

This report is consistent with the vision and objectives of the Illawarra-Shoalhaven Regional Plan 2015. The proposal particularly meets the directions 1.1, 1.4, 3.2 and 5.1.

This report is consistent with the aims and objects of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. The proposal seeks to permit a Centre-based Child Care Facility on the subject lot. The NSW Department of Planning and Environment has projected the demand for 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.



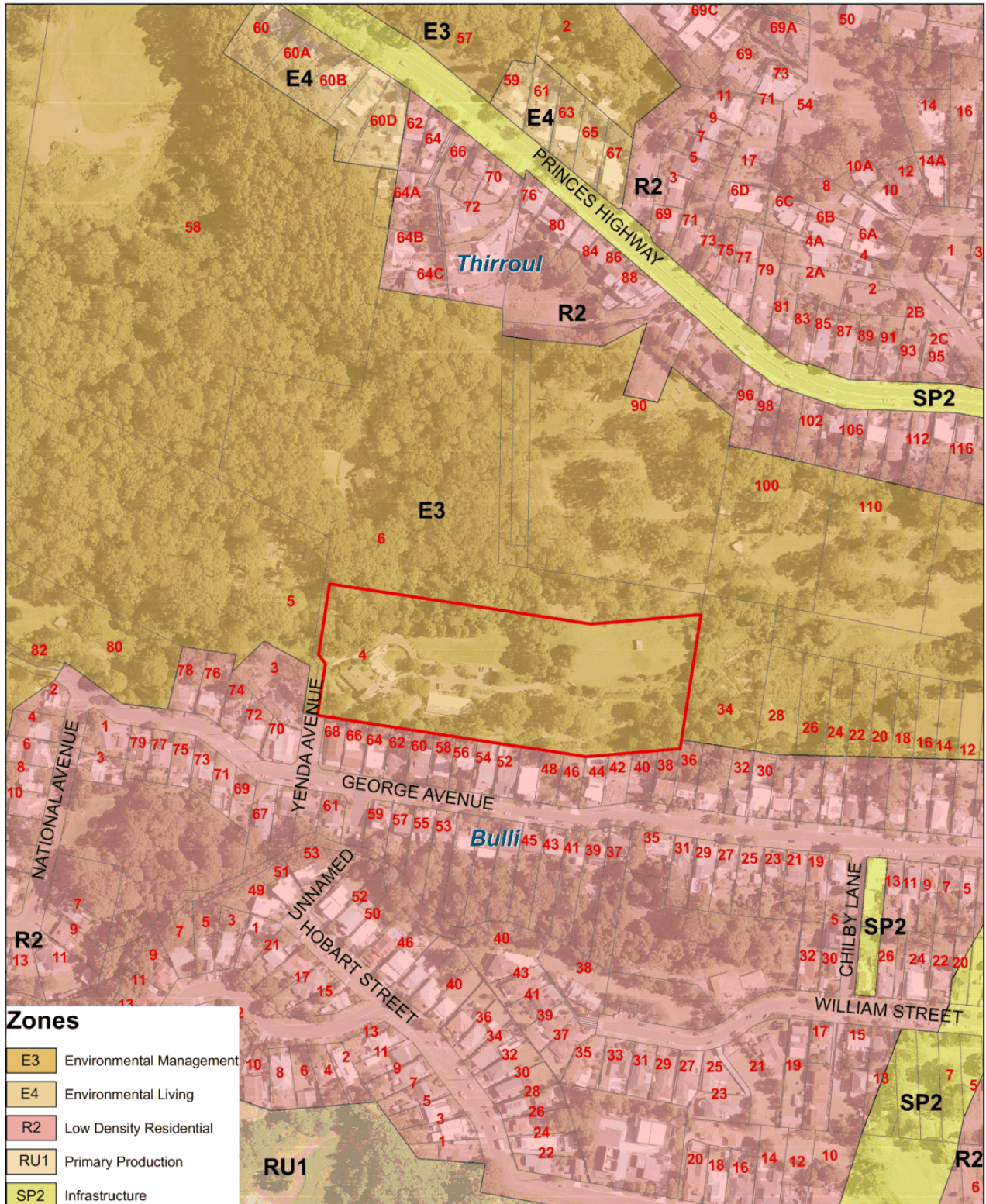
This report contributes to the delivery of Wollongong 2028 objective “*Our natural environment, waterways and terrestrial areas are protected, managed and improved*”, under the Community Goal “*We value and protect our environment*”. It specifically delivers on the following –

| 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. |

## CONCLUSION

A Planning Proposal seeking to amend Schedule 1 on the Wollongong Local Environmental Plan 2009 to include the provision for a Centre-based Child Care Facility as additional use upon the site at 4 Yenda Avenue Bulli has been assessed. 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 in the immediate area. Submissions received from the community and internal and external reference groups have been considered in determine the suitability in recommending the progression of the Planning Proposal.

It is recommended that Council resolve to prepare a draft Planning Proposal for Lot 105 DP 264639 Yenda Avenue, Bulli and submit it to the NSW Department of Planning, Industry and Environment seeking a Gateway determination to allow the further studies and subsequent public exhibition.





## ADVICE

### WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

|                            |  |
|----------------------------|--|
| <b>DATE OF MEETING</b>     | 7 August 2019  |
| <b>PANEL MEMBERS</b>       | Robert Montgomery (Chair), Mark Carlon and Sue Hobley                                  |
| <b>STAFF IN ATTENDANCE</b> | David Green (Land Use Planning Manager), Jon Bridge (Senior Strategic Project Officer) |
| <b>PROPERTY</b>            | 4 Yenda Avenue Bulli   |

Wollongong Local Planning Panel (WLPP) meeting held at Corrimal Community Centre Meeting Room, Short Street Corrimal, opened at 1:12pm, adjourned from 1:20pm to 2:10 and closed at 3:20pm. Panel deliberations continued after the meeting closed.

#### CONFLICT OF INTEREST

None of the Panel members had any conflict of interests relating to the matter.

#### ITEM 1

Planning proposal amend the Additional Permitted Use Schedule to include “centre-based child care facility” at 4 Yenda Avenue Bulli.

#### PUBLIC SUBMISSIONS

As the Panel is providing advice only to Council on the planning proposal, the Panel meeting was not open to members of the public. No representative of the applicant attended the Panel.

#### PANEL CONSIDERATION

The Panel inspected the site prior to the meeting.

The Panel acknowledges that a centre based child care facility may be appropriate in the locality based on population growth and demand for such facilities in the area. While there appears to be sufficient area within the subject land to accommodate such a facility, concern is raised about the suitability of the site for a child care centre due to the risks of flooding and bushfire. The Panel considers this to be the sole obstacle to its support of the planning proposal.

The Panel notes that the driveway access to the site traverses both the flood prone, and bushfire risk section of the site. The Panel considers that the proponent has not demonstrated how these significant risks will be managed in terms of general safety and in particular the safe evacuation of the occupants in time of flood or bushfire threat, noting that the facility may serve infants and toddlers among others.

Notwithstanding preliminary advice from Rural Fire Services raising no objection to the planning proposal, the Panel is not inclined to support the proposal unless compliance with Planning for Bushfire 2006 for a future child care facility can be demonstrated. In particular, concern is raised as to whether the existing access driveway is capable of compliance.

#### ADVICE TO COUNCIL

The Wollongong Local Planning Panel recommends to Council that the following matters should be addressed by the applicant prior to Council deciding whether to submit the draft Planning Proposal for land known as 4 Yenda Avenue Bulli to the Department of Planning and Environment (DPE) for a Gateway Determination:

1. A flood management plan be submitted which details how the safety of child care centre staff and children will be assured during a flood event. The plan should include the following information:
  - details of flood warning systems and warning times;
  - Flood characteristics, ie depth, velocity, hazard and location of flood waters;

- the likely time that the site will be isolated by floodwater;
  - whether evacuation is required, or if staying in place is recommended based on the flooding characteristics.
  - If evacuation is required, details of evacuation of the building, including timing, logistics and evacuation route.
2. A detailed bushfire management plan be submitted which includes the following information:
- A review of whether the existing access complies or is capable of compliance with Planning for Bushfire 2006; and
  - Details of evacuation of the building, including timing, logistics and evacuation route.
3. The Panel acknowledges that this level of detail would generally be submitted with a development application, however, in the circumstances of this site-specific proposal, it is considered imprudent for the planning proposal to proceed unless it can be demonstrated that the natural hazard risks of the site can be suitably managed for the establishment of a child care centre on the land.

Voting: 3/0