

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Friday, 27 November 2020 12:50:38 PM

Submitted on Fri, 27/11/2020 - 12:48

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Luke

Last name

Joseph

I would like my submission to remain confidential

No

Info

Email

luke.joseph@campbelltown.nsw.gov.au

Suburb/Town & Postcode

2560

Submission

As a planner working in local government, I object to the introduction of a minimum CIV for schools to be treated as State Significant Development.

I believe that ALL public-school related developments, ranging from the most minor alterations to construction of new public schools should either have a SSD or Complying Development Pathway. I can not see why under any circumstances the NSW Government should have to seek consent from a Council to construct or alter a public school on land owned by the NSW Government. This just adds a layer of bureaucracy to the process - and I am certain that the NSW Government has sufficient expertise to make planning decisions about its own schools. Councils should continue to be consulted regarding these DAs, but making Councils the consent authority would be a complete waste of time and money.

When DAs for public schools are lodged, the applicants are reluctant/unable to change/improve the development at Council's request, because the scope and design of works has been set in advance and approved by government departments. Similarly, no condition of consent can be imposed without the applicant's agreement. So what is the point of a DA being lodged under such constricted circumstances? It would just add time and cost to the delivery of critical state infrastructure as it has in the past.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Monday, 30 November 2020 12:03:19 PM
Attachments: [readme.txt](#)

Submitted on Mon, 30/11/2020 - 11:51

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Vanessa

Last name

Long

I would like my submission to remain confidential

No

Info

Email

vanessawlong@gmail.com

Suburb/Town & Postcode

2117

Submission file

[readme.txt](#)

Submission

(cut and paste from the attached file)

===== Feedback to Review of SEPP =====

+ SEPP review submission process

Currently, centre based child care facilities are approved by the State government as well as Local Councils. At the State government level, the process has been just and transparent, because applications are evaluated against the requirements set out by the National laws and regulations. At the Councils level, the process has been bureaucratic and the evaluation criteria are very subjective, depending which Council staff is assigned to evaluating the application. I had an application lodged with the Parramatta Council in 2019, and the application is still stuck at the pre-lodgement stage despite three attempts of re-lodging the application. One of the reasons was that Council staff did not fully understand the nature of my application, and they asked for irrelevant reports. My experience made me believe that it is in the public's interest if the State government can take over the whole evaluation process with little or no involvement from local Councils. If local Councils must play a role in the approval process, there should be unambiguous evaluation criteria set out for Councils to follow.

The Review of SEPP paper states that "A number of stakeholders, including Local Councils, have raised concerns about amenity impacts, such as noise and traffic, arising from child care centres being in close proximity to each other in Low Density Residential zone - R2" ... "A suggested minimum separation distance of 200m between centre based child care centres is being considered.". There are potential problems with this suggestion. Firstly, the problem of having child care centres being in close proximity to each other is not common. Take a survey of all child care centres in NSW, what percentage of them are being in close proximity to each other? Are Local Councils' comments supported by any data? At the introduction of the SEPP in 2017, it was projected that additional 2700 long day care centres were needed. If these long day care centres need to be 200 meters away from each other and away from existing child care facilities, how practical is that? The restriction of keeping child care facilities 200 meters apart should not be introduced without a proper study of the problem. The following is one simple calculation.

Let's call the area within 200 meters of radius of a centre based facility a forbidden zone. Each centre based facility would create a forbidden zone of $3.14 \times 200 \times 200 = 125600$ square meters (or 0.1256 square kilometres). I do not know the exact number of centre based facilities currently in Sydney, but according to <https://www.careforkids.com.au/child-care/sydney> and <https://www.careforkids.com.au/child-care/nsw/parramatta>, there are at least 4958 and 347 child care centres in Sydney and in Parramatta respectively. This means that the forbidden areas created by existing child care centres would be at least $0.1256 \times 4958 = 623$ square kilometres for Sydney and $0.1256 \times 347 = 44$ square kilometres for Parramatta if the 200 meters distancing rule was enforced. These are huge areas, and where could we find place for the 2700 new child care centres aimed to add in the SEPP 2017?

The issue of having child care centre in close proximity is not an issue at the moment. At least, it is not an issue that is supported by research data. If it is indeed an issue, the issue should be managed carefully at State level, not at Council level. My personal experience tells me that if Local Councils were excluded from the approval process, greater transparency, consistency and efficiency would be achieved.

Back in 2017 when the SEPP was created, the reason not to reject child care centre applications for the reason of being in close proximity to each other was because we wanted the community (i.e. the users), not Councils, to decide who should have a child care business, and to which child care centre they should send their children. Competitions can help improving child care qualities. Surely, new centre based applicants would take competitions into considerations when they apply for approvals.

Secondly, not every Low Density Residential zone (R2) site is in the same environment. Some are in area that are close to schools and public transportation; some are next to archery road with plenty off-street parking space; and some are bounded by quiet, narrow streets / lanes. We should not impose the 200 meters restrictions on those sites which demand for child care services are high. Child care centres are not the main source of traffic generator.

Similarly, child care centres are not the only source of generating noise. Every site is different. Noise levels should be tested and reported by qualified engineers, not Councils. Besides, there are measures, such as installing double glazing windows, that help reduce noise. These measures are less problematic than the 200 meter restriction rule. What might be logical is that a large child care centre proposing places over certain threshold, say 60, must be approved by the State government with additional measures. Again, we need clear state-wide guidelines for this issue.

The following areas are also in need of clear state-wide guidelines.

- There's a need to clarify that the distance of 200m does not include child care centres within school ground. For example, if there's a child care centre existed in a school, a centre-based child care should be allowed outside the school ground in residential area. A more sensible suggestion is that if a new child care centre is proposed, and there is already another child care centre within 200 meters radius, then the application should be approved by the State government.

- Approving authorities must also clarify whether the 200 meters distancing rule applies to potential child care centres that will be built in the future. A scenario of confusion might arise: applicant A applied for building a new child care centre, and the application was approved by a local Council. Applicant A does not start building right away; he will build in five years time. During this time, applicant B applied for building a new child care centre nearby. Does it mean that applicant B's application will be rejected simply there's already an approved child care centre in close proximity? It wouldn't be fair to applicant B if his application is rejected. What if applicant B provides higher quality services to the community with higher? Many other complications will arise from this distancing rule. Giving Councils more power would make things worse. It will work against the objectives of the SEPP, which is to reduce red-tape and blockages and to increase efficiency.

- Parking has been a main issue for centre based facilities. Currently, for every four places proposed, one parking space is required for most sites. This ratio was set long time ago when the population was significantly lower than what it is today. For sites that are in close proximity of schools and public parking spaces, this rule should be relaxed. Similarly, for sites that are within walking distance from public transportation such as a frequently serviced bus route, the rule should be relaxed too. The current SEPP suggests flexibility in this regard, but Local Councils do not follow the recommendation most time. The State government should set a clear ratio (such as 1:6) for Councils to follow.

- Many Councils require accessible parking space. It is fair to ensure that child care facilities are designed to be accessible by all potential users. However, there are many users with prams, but there is hardly any disabled users, according to my observation. An accessible parking space takes up twice as much as space, and yet, the percentage of less mobile users can be rounded to zero. This adds pressure on the already tight parking space. What can be improved is that an accessible parking space is counted as 2 (or even 3) parking space. I would suggest that the revised SEPP prevent Councils reject an application simply there's not accessible parking space on site. Besides, I have not seen accessible parking space provided by public schools to less mobile parents.

- Currently, different Councils have different requirements for storm water. I understand that different geographic areas have different goals for harvesting storm water. However, the differences are beyond scientific reasoning. Take Parramatta Council and Rockdale Council as an example, the Rockdale Council requires storm water. tank charge point to be at least 600mm above the receiving point in a storm water. pipe. The Parramatta Council, however, requires a much higher height difference. There is no scientific and engineering reasoning behind the difference- why water is harder to be charged into storm water. pipes in Parramatta than in Rockdale? I think this is another area that the State government should create a common standard for all Councils.

- Trees is another area that needs to be standardised. There are three huge trees in my property that I considered not safe for children. The huge canopy constantly swinging over our heads. Despite qualified arborist suggested for removal, my Council refused to grant permission for removal. Their reasoning was that the trees contributed to the greening of the LGA. However, they refused to look at the risks involved in keeping the trees. The greening of the LGA should be come at the expense of children's live. I wish the State government could assess trees in child care centre instead of local Councils.

- Once a centre based facility is approved, the provider should have the right to split a day into different sessions within the approved operating hours. For example, for a facility that is approved to run from 7am to 7pm Monday to Friday, the provider should be able to decide whether they want to run one single session from 7am to 7pm, or to run two half sessions such as one session from 7am to 3pm, and another session from 3pm to 7pm, or the combination of the two. This gives providers the flexibilities to provide the best program to the community users. Operations on the weekends should also be encouraged. Many family lost their jobs or switch to part-time or weekend employment as a consequence of COVID-19. They need to have these flexibilities, and yet, most Councils do not support operations in the weekends.

- Community users should have a say too. If there's a petition signed by potential users, and the number of signatures is greater than the number of places proposed in an application, then Councils should approve the application.

- Tree are generally good for children and our environment. However, there are cases that certain cases when tree are too dangerous to be in a residential or a child care centre. Local Councils have different standards in terms of tree evaluation. Personally, I have dealt with two different Councils. One can see the harm for not removing the trees, and approved my application immediately. The other rejected my child care centre application even though the risks of the trees are evidenced. Again, a

- Local Councils also add lots of bureaucracy in terms of storm water. design. My personal experience was that every time I talked to a different staff in my local Council, I got different storm water. issues.

- There should be a time limit that Local Councils must made their decisions regarding applications, just like the provider and service approval processes do. This way, Local Councils could not let applications sitting idle for months. Councils must also not ask for applicants produce expensive reports or do substantial work and reject the applications later. Instead, Councils could put those works in conditions of approval.

The introduction of the Education SEPP was a great step in the right direction. It has helped saving time and money. However, my experience told me that Local Council should be removed from the approval process in order to deliver greater consistency across NSW. It would be great if the State government / approving authorities hold regular public information sessions explaining the SEPP to current and potential service providers. That way, the public would have greater understanding of the obligations, and the government would receive timely feedback from the public.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Tuesday, 1 December 2020 9:39:57 AM

Submitted on Tue, 01/12/2020 - 09:35

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Thomas

Last name

Dales

I would like my submission to remain confidential

No

Info

Email

tdales@hornsby.nsw.gov.au

Suburb/Town & Postcode

2077

Submission

- There should be FSR controls consistent with the complying development sepp in r2 zones,
- That there should be cap limit on children numbers based on site area, similar to complying development scale controls,
- There should be acoustic fence height controls to stop 3m high fences,
- That the 200m radius between child care centres should include approved development.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Wednesday, 9 December 2020 4:09:38 PM
Attachments: [final-esepp-submission---aisnsw---dec-2020.pdf](#)

Submitted on Wed, 09/12/2020 - 16:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

David

Last name

Buley

I would like my submission to remain confidential

No

Info

Email

dbuley@aisnsw.edu.au

Suburb/Town & Postcode

Sydney, 2000

Submission file

[final-esepp-submission---aisnsw---dec-2020.pdf](#)

Submission

Submission file uploaded - Final ESEPP submission - AISNSW - Dec 2020.pdf

I agree to the above statement

Yes

From: [Rebecca Gordon](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [Helen Deegan](#); [Ashleigh Coombes](#); [Campbell R. Capel](#); [Tina Tang](#)
Subject: RE: Submission in response to the Education SEPP 2017 amendments
Date: Wednesday, 23 December 2020 11:45:07 AM
Attachments: [image002.jpg](#)
[image007.png](#)
[image009.jpg](#)
[201223 ESEPP submission Moore Theoloical College.pdf](#)

Attention: Department of Planning, Industry and Environment

Further to the emails below, we thank you for the opportunity to lodge our attached submission, on behalf of Moore Theological College (MTC), in response to the proposed amendments to the Education SEPP.

Given the significant implications the ESEPP has for non-government tertiary institutions, we would welcome the opportunity to meet in person and discuss the content of our submission further.

I can be contacted via this email or alternatively please do not hesitate to contact Helen Deegan via email helend@cityplan.com.au or phone 8270 3500.

Kind regards

REBECCA GORDON
Senior Associate | PLANNING



Level 6, 120 Sussex Street, Sydney NSW 2000
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Connect: [linkedin](#) | [facebook](#) | [website](#)



[PLANNING](#) | [BUILDING](#) | [HERITAGE](#) | [ACCESS](#)



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From: Leesa Haynes <Leesa.Haynes@planning.nsw.gov.au> **On Behalf Of** DPE PS Education SEPP Mailbox

Sent: Tuesday, 15 December 2020 11:48 AM

To: Ashleigh Coombes <Ashleighc@cityplan.com.au>

Subject: FW: Webform submission from: Review of the Education SEPP 2017

Hello Ashleigh,

Thank you for your submission on behalf of City Plan Strategy and Development Pty Ltd requesting an extension to provide a submission on proposed amendments to the Education SEPP.

Please be advised that your request for an extension to 23 December 2020 has been approved

and the department will accept your submission if it is received by 23 December 2020.
As the planning portal page may be closed to submissions, please email your submission to the proposed Education SEPP amendments to the [Education SEPP mailbox](#).

Kind regards,

Leesa

From: noreply@feedback.planningportal.nsw.gov.au

<noreply@feedback.planningportal.nsw.gov.au>

Sent: Monday, 14 December 2020 3:53 PM

To: DPE PS Education SEPP Mailbox <education.sepp@planning.nsw.gov.au>

Cc: DPE PS ePlanning Exhibitions Mailbox <eplanning.exhibitions@planning.nsw.gov.au>

Subject: Webform submission from: Review of the Education SEPP 2017

Submitted on Mon, 14/12/2020 - 15:53

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Ashleigh

Last name

Coombes

I would like my submission to remain confidential

Yes

Info

Email

ashleighc@cityplan.com.au

Suburb/Town & Postcode

Sydney 2000

Submission

To whom it may concern,

This submission has been prepared by City Plan Strategy and Development Pty Ltd to request an extension of time to prepare a submission to the proposed Education SEPP amendments. We are currently working with our client to prepare a submission and kindly request an extension of time until next Wednesday 23 December 2020 to submit. We will assume this extension is acceptable unless otherwise advised.

Regards,

Ashleigh Coombes

Associate

City Plan Strategy and Development Pty Ltd

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Tuesday, 15 December 2020 3:55:54 PM
Attachments: [20201215-nswvcc-letter-and-submission_education-sepp-review_15-december-2020.pdf](#)

Submitted on Tue, 15/12/2020 - 15:52

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Ellen

Last name

Goh

I would like my submission to remain confidential

No

Info

Email

executive_officer@nswvcc.edu.au

Suburb/Town & Postcode

Wollongong

Submission file

[20201215-nswvcc-letter-and-submission_education-sepp-review_15-december-2020.pdf](#)

Submission

Dear Sir/Madam

Please find attached a submission from the NSW Vice-Chancellors' Committee.

Kind regards

Ellen Goh

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Tuesday, 15 December 2020 4:11:09 PM

Submitted on Tue, 15/12/2020 - 16:10

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Steven

Last name

Adams

I would like my submission to remain confidential

No

Info

Email

s.adams@tsc.nsw.edu.au

Suburb/Town & Postcode

Bellevue Hill

Submission

Thank for the opportunity to make a submission.

Raising thresholds

Increasing CIV thresholds for school developments has been a benefit in the past as it took the determination away from local government to a State level, where a more strategic approach was taken. The current proposal to increase the CIV from \$20M to \$50M will put many schools back to where they were prior to the 2017 amendments with potential for lengthy delays driven by oppositional Councils and communities. This needs further thought.

Raise the height limit

The increase from one to two storeys is welcome.

Student number caps

The current policy of placing caps on schools is arbitrary and clumsy. A better approach would be to mitigate the potential amenity impacts directly.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Wednesday, 16 December 2020 1:55:21 PM

Submitted on Wed, 16/12/2020 - 13:54

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Vanessa

Last name

Long

I would like my submission to remain confidential

No

Info

Email

vanessawlong@gmail.com

Suburb/Town & Postcode

Dundas Valley 2117

Submission

I think the 200 distancing requirement between two child care centres should be studied more carefully. It will raise many issues such as the following.

- two small child care centres with 30 children each would not produce more traffic problems than a single large child care centre of 70 children. It is better to put a cap on the number of children on a single child care centre in R2 zones than enforcing the 200 distancing requirement.

- child care centres in artery road don't produce more traffic problems than child care centres in narrow streets. More child care centres should be encouraged to be built along artery roads. Traffic reports should play a role in this regard. Councils should also give green lights to potential centres using existing off-street parking space.

End of submission

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 7:31:04 AM
Attachments: [autism-spectrum-australia---nsw-dept-submission---education-sepp---15-december-2020.pdf](#)

Submitted on Thu, 17/12/2020 - 07:29

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Simon

Last name

King

I would like my submission to remain confidential

No

Info

Email

simonking@autismspectrum.org.au

Suburb/Town & Postcode

2086

Submission file

[autism-spectrum-australia---nsw-dept-submission---education-sepp---15-december-2020.pdf](#)

Submission

Please refer to the attachment submission file

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 8:17:05 AM
Attachments: [esepp-review.pdf](#)

Submitted on Thu, 17/12/2020 - 08:11

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Andrew

Last name

Baxter

I would like my submission to remain confidential

No

Info

Email

abaxter@tasc.nsw.edu.au

Suburb/Town & Postcode

Hurstville 2220

Submission file

[esepp-review.pdf](#)

Submission

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
15 December 2020

Dear Director,

We are writing in response to the recently exhibited amendments proposed to SEPP (Educational Establishments and Child Care Facilities) 2017. Please find attached an overview of our comments of support or requested amendment to this important planning legislation for school infrastructure delivery in NSW.

The Anglican Schools Corporation (ASC) operate 16 established schools throughout metropolitan Sydney and regional NSW. Corporation Schools are structured to be accessible and affordable to all students and seek to offer a very high-quality education in a caring Christian environment whilst ensuring fees are kept as low and affordable as possible.

The Anglican Schools Corporation is committed to providing high quality facilities for its students. Facilities provided are comparable to those provided in newly built State schools but tailored to suit the schools own particular teaching philosophies.

There continues to be strong interest expressed by the general public in enrolling students in the ASC schools.

We recognise and support the principle of the NSW government to assist in the appropriate assessment and efficient construction, operation and maintenance of education infrastructure, and in so doing, provide more equitable planning rules for government and non-government schools to meet the growing needs of the NSW population.

Please don't hesitate to contact myself Andrew Baxter on 0418 439 170 if you need to discuss any of the issues raised in this submission.

Your faithfully,

Mr Andrew Baxter
Project Manager
Anglican Schools Corporation

I agree to the above statement

Yes

From: [Allan Caladine](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [David Wilson](#); [Margaret Wilson](#); [Pat O'Brien](#)
Subject: Department of Planning, Industry and Environment - Childcare Centre Submission
Date: Thursday, 17 December 2020 3:35:46 PM
Attachments: [Department of Planning, Industry and Environment - Childcare Centre Submission.pdf](#)

Please find attached my planning submission in regards to the amendments to SEPP (Educational Establishment and Child Care Facilities) 2017. Specifically, Childcare Centres.

Regards,

Allan Caladine

Town Planning Consultant

CALADINES TOWN PLANNING PTY LTD

1 Lynbrook Court

Castle Hill NSW 2154

Ph (02) 96597211 Fax (02) 96597244

0413 597 295

Email: caladines@optusnet.com.au

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 3:52:04 PM
Attachments: [nt-submission---education-sepp---sent.pdf](#)

Submitted on Thu, 17/12/2020 - 15:48

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Andreana

Last name

Kennedy

I would like my submission to remain confidential

No

Info

Email

akennedy@nationaltrust.com.au

Suburb/Town & Postcode

2000

Submission file

[nt-submission---education-sepp---sent.pdf](#)

Submission

Please find attached a submission from the National Trust (NSW).

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 4:50:47 PM
Attachments: [review-of-the-education-sepp---submission-from-federation-of-parents-and-citizens-associations-nsw.pdf](#)

Submitted on Thu, 17/12/2020 - 16:46

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Patrick

Last name

Doumani

I would like my submission to remain confidential

No

Info

Email

comsupport@pandc.org.au

Suburb/Town & Postcode

Parramatta

Submission file

[review-of-the-education-sepp---submission-from-federation-of-parents-and-citizens-associations-nsw.pdf](#)

Submission

Please see attached submission from Federation of Parents and Citizens Associations NSW (P&C Federation).

I agree to the above statement

Yes

**Review of State Environmental Planning Policy
(Educational Establishments and Child Care
Facilities) 2017.**

**Submission on behalf of the Montessori
Academy Group**

SPP Services Pty Ltd

December 2020

Submission to Review of SEPP (Educational Establishments & child Care Facilities) 2017

1 Executive Summary

The Montessori Academy Group which operates over 30 centres in NSW believes that some of the proposed changes require refinement and amended while others should be abandoned.

The recommendations contained in this submission are as follows.

R1 In relation to the separation between CCC sites, MAG strongly believes that the proposal to restrict child care centres locating in close proximity to each other should be abandoned.

R2 In relation to noise measurement near school sites, the measurement of noise from school based child care centres should be at the nearest residential receivers rather than at Lot boundaries to ensure consistency with current practice for all child care centres.

R3 In relation to fire safety at sites above ground floor, MAG requests that any controls applied in this area distinguish between a stand alone 2 storey building housing a child care centre and that of a child care centre that is situated above ground in a multi storey building or in a commercial centre.

R4 In relation to local character assessment, MAG believes that the proposal to explicitly require a consideration of local character is already adequately addressed in existing legislation and policy guidance, would be inconsistent with other developments (other than Boarding houses under the relevant SEPP), is completely unnecessary and should not be proceeded with.

R5 In relation to site selection guidance, MAG opposes any requirement, or implied requirement, that councils be involved in pre-purchase decisions. The planning controls already provide for permissibility (or otherwise) of sites and the existing guidelines provide clear guidance on site selection and site suitability considerations. Professional child care operators seek advice and guidance on site selection as should be expected in a commercial decision and for any proposal that will involve a Development Application process. There is no need to further codify this arrangement.

R6 In relation to protecting amenity in R2 zones, MAG:

- Strongly opposes removing the provision that makes child care centres permissible in low density R2 zones;
- Strongly opposes any arbitrary geographic limitation of separation distance between child care centres;
- Strongly opposes any proposal to limit the design of child care centres as would prohibit (or unreasonably limit) the location of first floor children's play areas (or activities) in stand-alone 2 storey buildings operating as a child care centre.

R 7 In relation to the definition of railway stations for minimum car parking standards MAG:

- Supports clarifying the definition of railway stations;
- Request the CCPG make provision for lower minimum car parking rates for CCC site near railway stations irrespective of Council DCP provisions, similar to the policy approach under SEPP 65.

R8 In relation to minimum solar access standards, MAG requests that this control be reconsidered to ensure it is clearer and does not inhibit the optimal design and management of sun access in child care centres. As currently framed the provision would result in a greater proportion of shade in mid-

winter than in mid-summer, which arguably is the inverse of the desired outcome. It is suggested that the provision of shade for child care should be in the form of design guidance rather than an attempt to address the situation through numeric codification.

R9 An additional issue concerns the scope of CCPG versus DCP's. MAG requests that the CCPG be amended at C31 to provide that the Child Care Planning Guideline will take precedence over all DCP provision except in relation to:

- side and rear setbacks
- LEP provisions concerning height and FSR.

R10 A further issue concerns minimum car parking requirements. To ensure consistency MAG requests that:

- Clause 25 of the SEPP be amended by adding a part 2 (e) which reads:
"(e) car parking provisions consistent with those described in Clause C31 of the Child Care Planning Guideline."
This would mean that, if car parking complies with the CCPG, the DA could not be refused.
- Clause 26 of the SEPP be amendment to be consistent with the above

R11 A further issue concerns Councils seeking to pre-determined child care design outcomes including prohibit the use of first floor for children's activities. MAG strongly requests that Clause 26 (1) of the SEPP be amended by the addition of a sub-clause reads:

26(1) (e) Anything that would prevent (or restrict) the location of children's indoor and outdoor areas within a centre that is not a specific requirement contained in the Child Care Planning guideline.

2 Introduction.

This submission is based on the proposals contained in the Statement of Intended Effects (SIE) dated November 2020 and some other provisions in the existing Child Care Planning Guideline (CCPG).

No further details have been provided in relation to any specific provisions that are proposed. The SIE states that the review is informed by requests from various stakeholders and that the amendments aim to improve the operation and usability of the SEPP.

The Montessori Academy group (MAG) operates more than 30 child care centre, mostly in the Sydney region. It has another 10 centres undergoing regulatory approval processes.

It too has had considerable experience working with the existing SEPP and the associated NSW Child Care Planning Guideline.

The comments in this submission relate only to the provision of centre based child care facilities and do not address those provisions dealing with other educational establishments.

3 DPIE Proposed Changes

The SIE includes the following changes explicitly affecting child care centres.

- Restricting child care centres within close proximity of each tooth in low density residential areas, with a minimum separation distance of 200 emits being co9sndiered. Opposed by MAG
- Regulating operating hours in school base child care approved as exempt development.
- Measuring noise impact for complying development.

- CCPG amendment – fire safety provisions for multi storey child care centres and centres in multi storey buildings.
- CCPG amendment – requirements for centre based child care to consider local character.
- CCPG amendment – site suitability guide=acne for centre based child care facilities.
- CCPG amendment – site suitability guidance amenity impacts in low density reinstall areas.
- CCPG amendment – consistent terminology regarding railway stations.
- CCPG amendment – solar access, minimum standards.
- CCPG amendment - consistent fence heights.
- CCPG amendment – clarifications and corrections.
- Planning circular PS 18-005 New guidance for centre based child care facilities - general updates and classifications.

In addition to the above MAG believes there are several other areas in the SEPP and CCPG that warrant amendment. These include:

- a. Clarifying that the CCPG takes precedence over council DCPs.
- b. Introducing compliance with the parking guidelines expressed in C31 of the CCPG as deemed to satisfy any minimum Council's car parking equipment.
- c. prevent Council from refusing a child care centre on the grounds that it is proposed as 2 storey building with children's activities on the upper level.

4 Statement of regulatory principles.

The Montessori Academy Group has been supportive of the Child Care Planning Guideline (CCPG) introduced in 2017 for the following reasons:

- a. Its provisions, in large measure, achieved manifest public benefits for early childhood care and education.
- b. It created substantially uniform rules across the early childhood sector.
- c. On many issues, it clarified rules and minimised subjectivity and inconsistencies between local government DCPs and policies.

MAG is not convinced that some of the proposed changes will advance these objectives.

a. Public Benefit test. It is a generally accepted truism that NSW planning laws generates excessive red tape. MAG submits that those relating to the provision of child care facilities are similarly afflicted notwithstanding the importance of early child development and stewardship in public policy.

It is submitted that this area of policy, like other area of planning policies in NSW, should be the subject of a public benefit test whenever changes to the regulatory regime are contemplated. This can simply be expressed simply as:

Whether a provision contained in an EPI or an associated instrument, achieves, or is likely to achieve, a manifest net public benefit.

Accordingly, it is submitted that the public benefit test should be applied to:

- each of the currently proposed changes to the SEPP and the Child Care Planning Guideline, and
- the existing provisions of the SEPP and Child Care Planning Guideline.

In framing this submission, MAG has relied on this test to guide its position on the proposed changes and to advocate for other changes to reduce needless red tape that is unlikely to yield any public benefit. It is submitted that several of the proposed changes do not satisfy the public benefit test, and appear to be driven by the misguided enthusiasm of some local government planners.

b. Uniformity of rules. Some of the changes would re-empower local councils to become more involved in the details of child care centre design. MAG's experience is that the attitudes and approaches from councils are many and varied and indeed also depend on who the assessment officer is within each council.

MAG has experienced subjective meddling by Council staff in matters that are clearly the domain of the Early Childhood branch of the Department of Education. Some of the proposed changes expand the remit for Council staff, will slow down the assessment process, and introduce more complexity and variability in the assessment of child care DAs, yet yield no public benefit.

c. Consistency of application of rules. Everyone is capable of assessing an issue subjectively. So given the multiplicity of local government staff that become involved in assessing child care applications there is a massive scope for subjectivity in developmental assessment. MAG is of the view the some of the proposed provisions will expand the likelihood of more subjectivity in assessments, and hence greater inconsistency in the application of the rules.

While Montessori Academy Group (MAG) believes that the introduction of the SEPP in 2017 was a significant positive step in improving processes for the approval of child care centres, it acknowledges that there are still some areas that can be improved.

However, MAG does not support some of the proposed changes for the following reasons:

- It is moving away from the benefits of uniformity provided by the NSW Child Care Guidelines.
- Some of the proposed changes are further empowering local Councils to expand their role and impose their own enthusiasms on the regulation of child care centres and their operations.
- It is introducing more subjectivity, and inconsistency, in the assessment of child care centres.

5 Specific Concerns with currently proposed amendments.

The following comments address each of the changes that are of concern.

5.1 Restricting child care centres in proximity to each other (eg within 200m) in low density residential zones.

This is strongly opposed for the following reasons:

- a. Various aspects of the development assessment process already consider cumulative impacts such as parking and traffic assessment.
- b. It is anti-competitive. It would be unthinkable to ban a bread shop simply because there is another nearby. The ACCC and the Productivity Commission have previously raised concerns about anti-competitive behaviour. Inevitably, some child care centres are better than others and allowing centres to be located nearby will help drive quality through competition.
- c. Child care centres are almost exclusively a day time use and amenity impacts, if any, are day time impacts. Unlike pubs and venues hosting functions and mass gatherings, the overwhelming majority of them have zero activity after 6.00 pm in the evening and do not operate on weekends.
- d. On the contrary, child care centres are usually a highly compatible use in a residential area.

- e. Child care operators typically make demand assessments prior to locating new child care centres and this, in itself limits co-location of centres.
- f. Allegations that there are cumulative noise impacts are not supported by evidence. Since noise limits are set at residential receivers on adjacent sites there are no implications for residents in buildings beyond adjacent sites, hence cumulative impacts do not arise.

In summary there is no such problem that needs to be fixed. Any such change would amount to more red tape with no likelihood of a public benefit.

R1 MAG strongly believes that the proposal to restrict child care centres locating in close proximity to each should be abandoned.

5.2 Measuring noise impacts for CCC within schools for complying development

MAG has sought advice for its acoustics consultants, The Acoustic Group (TAG). This advice is provided at Attachment A.

The difficulty with what is proposed in respect of school based child care is that the noise standard and measurement will differ from other child care centres. Measuring noise at the lot boundary can be perverse as it may bear no relationship to the people potentially affected by the noise. Steven Cooper of TAG has advised in the following terms.

“Placing a restriction on an educational facility at the site boundary, where there can be roads or even a highway between the school and the critical receiver points can present a restriction in terms of the operation of the school and is inconsistent with EPA policies.”

R2 Accordingly, MAG requests that the measurement of noise from school based child care centres be at the nearest residential receivers rather than at Lot boundaries to ensure consistency with current practice for all child care centres.

5.3 CCPG amendment – fire safety provisions for multi storey child care centres and centres in multi storey buildings.

MAG does not object to this change in principle but believes that categorising two storey stand-alone buildings as “multi storey buildings” is inappropriate as evacuation and fire safety measures will be substantially different to those in high rise buildings.

R3 Accordingly, MAG requests that any controls applied in this area distinguish between a stand-alone 2 storey building housing a child care centre and that of a child care centre that are situated above ground in a multi storey building or commercial centre.

5.4 CCPG amendment – requirements for centre based child care to consider local character.

Of relevance here is an important principle outlined in a Land & Environment Court Judgement in 2005 by Commissioner Roseth. The planning principle case reference is: Project Venture Developments Pty Ltd v Pittwater Council [\[2005\] NSWLEC 191](#) at 22-31. The judgement stated, in part:

Planning principle: compatibility in the urban environment

22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without

having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

MAG cannot see any tangible public benefit from explicitly imposing this extra layer of regulation/red tape. Local character considerations are already adequately covered by the following;

- heritage considerations for heritage conversation areas, buildings adjacent to heritage listed buildings and for centres to be located within heritage listed buildings.
- Zone objectives.
- DCP and other controls.
- The above principle espoused by the L & E Court.

Moreover, there is no justification for treating child care centres in a different way to any other development in these areas (with the exception of boarding house under the relevant SEPP).

R4 MAG opposes the proposal to impose a further local character assessment as it is already adequately addressed, would be inconsistent with other developments (except Boarding Houses under the relevant SEPP), is completely unnecessary and should not be proceeded with.

5.5 CCPG amendment – site suitability guidance for centre based child care facilities.

MAG does not oppose the preparation of a document that provides guidance on site suitability. In most cases it will serve to inform the size of a proposed Child Care Centre rather than whether it is permissible or not, which is already determined by zoning.

It is submitted that it is not appropriate for councils to become involved in regulating the selection and purchase of sites for child care. Already some providers will consult councils about potential child care site prior to purchasing sites, but the involvement of Councils in decisions to purchase sites in not only inappropriate but conducive to corrupt conduct.

MAG does not object to a guidance document being prepared.

R5 In relation to site selection guidance, MAG opposes any requirement, or implied requirement, that councils be involved in pre-purchase decisions. The planning controls already provide for permissibility (or otherwise) of sites and the existing guidelines provide clear guidance on site selection and site suitability considerations. Professional child care operators seek advice and guidance on site selection as should be expected in a commercial decision and for any proposal that will involve a Development Application process. There is no need to further codify this arrangement.

5.6 CCPG amendment – proposed measures concerning amenity impacts in low density residential areas.

These suggested measures seem to propose the following:

- removing the provision that child care centres are a mandatory permitted use in R2 Low density residential areas.
- proposed minimum separation distances between centres.
- regulating the location of outdoor play areas, including first floor areas because of alleged amenity impacts.

In relation to the first matter MAG strongly opposes any such change. It would be greatly regressive and would seriously restrict the supply of child care centre in areas of need. It would also cause a shift to the creation of more new centres within commercial complexes which are arguably not as favourable for the amenity of children.

In relation to creating minimum distances between centres this is strongly opposed for the reason articulated in Specific Concern 5.1 above.

In relation to the fallacy that children's play areas the first floor of centres located in residential areas have greater amenity impacts than those on the ground floor, you are referred to the attached report by The Acoustic Group (Attachment A) which argues very persuasively that, in actuality, it is easier to manage and limit noise emission from a first floor play area than from a ground floor area. Specifically, Steven Cooper advises as follows:

From a noise perspective the provision of outdoor play on the first floor of a childcare centre can actually improve the design of the building and reduce the bulk and scale of outdoor play areas in that the first-floor play area can have screens or similar fitting in with the building form for the first floor area and provide a greater degree of acoustic shielding to adjoining properties with a first floor level than when compared to an outdoor ground floor play area.

The provision of opaque glazing or similar to a height of 1.5 m provides visual privacy from the children into an adjoining residential properties and also provides visual privacy of the children from the adjoining properties, which cannot necessarily occur with respect to the ground level outdoor play space.

From recent assessments of proposed childcare centres we have been able to identify that we can achieve a significantly better acoustic environment by the use of first floor outdoor play spaces when compared to having all children utilising a ground level outdoor play area.

Utilising a ground level outdoor play space may require acoustic screens up to 3 m in height and for some centres intermediate screens within the outdoor play area (so as to address noise emission from children in the centre of the play area that would be removed from the perimeter screens).

Therefore, in a practical sense the suggestion that first-floor outdoor play areas can lead to greater noise impacts than that of the ground level outdoor play spaces may be correct through poor design, but when the design is considered in terms of an acoustic amenity for the neighbours, then the application of first-floor play spaces provides a better acoustic solution.

On the projects we have worked on the first-floor play area is used by the older children in a childcare centre which addresses the matter of emergency excavation by leaving the small children and babies to the ground floor level."

R6 In summary MAG:

- **Strongly opposes removing the provision that makes child care centres permissible in low density R2 zones;**
- **Strongly opposes any arbitrary geographic limitation of separation distance between child care centres;**
- **Strongly opposes any proposal to limit the design of child care centres as would prohibit (or unreasonably limit) the location of first floor children's play areas (or activities) in stand-alone 2 storey buildings.**

5.7 CCPCG amendment – clarifying definition of railway stations for the purposes of applying relevant car parking rates.

MAG supports this change however it believes that the benefits of locating a child care centres close to a railway station are rarely recognised in the DCP parking provisions of councils and that the CCPCG and /or the SEPP should provide a benefit in terms of lower minimum car parking requirements for centres located close to railway stations.

R7 In summary MAG:

- Supports clarifying the definition of railway station;
- Request the CCPG make provision for lower minimum car parking rates for CCC site near railway stations irrespective of Council DCP provision.

5.8 CCPG amendment – solar access - minimum standards.

The current wording and intent is very unclear and unlike any existing controls for solar access. The proposed new wording appears to require an area defined as “number of kids x 2.1sqm” and that area is then required to be provided for not less than 2 hours between 8am and 4pm in winter.

It is unclear why it says “winter” followed by “March 21 to September 21. A minimum needs to specify the exact day of the year otherwise it will create confusion. The DPIE needs to clarify its intent - Is the intent is to provide solar figures for the winter solstice or the equinoxes?

It is also not clear whether this minimum requirement is advisable during summer months when more rather than less shade is advisable. The clarification on wording and application should be aligned with shading provisions (currently contained under 4.11 of the CCPG).

R8 MAG requests that this control be reconsidered to ensure it is clearer and does not inhibit the optimal design and management of sun access in child care centres. As currently framed the provision would result in a greater proportion of shade in mid-winter than in mid-summer, which arguably is the inverse of the desired outcome. It is suggested that the provision of shade for child care should be in the form of design guidance rather than an attempt to address the situation through numeric codification.

6 Other concerns and proposal concerning the SEPP and CCPG

Given several years of operation of the SEPP and CCPG, MAG suggests there are a numbers of other provisions that should be improved in the interests of reducing red tape, expanding uniformity and reducing subjectivity and inconsistencies. These are detailed below:

6.1 Scope of the CCPG to be broadened.

Page 3 of the CCPG states:

The provisions of the Child Care Planning Guideline will generally take precedence over a DCP, other than building height, side and rear setbacks and car parking rates.

Where there are no DCP provisions consider the development application against the matters in the Guideline.

It is submitted that the hierarchy of controls remain ambiguous with such an equivocal statement. MAG’s experience is that councils and their various officers are progressively expanding their roles in the assessment for child care centres, often transgressing into areas of State and national child care policy.

Accordingly, MAG requests that the above statement in the CCPG be amended to read:

R9 The provisions of the Child Care Planning Guideline will take precedence over all DCP provisions except in relation to:

- side and rear setbacks
- LEP provisions concerning height and FSR.

6.2 Car parking for child care to be made uniform.

MAG's experience is that councils apply their DCP car parking rates as a non-negotiable requirements and fail to take into account often compelling evidence from traffic consultants a stop more realistic needs and demands for particular coalitions den circumstances.

That is, there is no merit assessment in relation to car parking. Sometimes such strict adherence to car parking requirements unnecessarily restricts the size of a centre or constrains better design outcomes. MAG has not experienced flexibility for even 1-2 car spaces in over 15 development assessments since the CCPG was introduced.

Paragraph C31 (page 19 of the CCPG provides the following car parking requirements:

“Where a Development Control Plan does not specify car parking rates, off street car parking should be provided at the following rates:

Within 400 metres of a metropolitan railway station:

1 space per 10 children;

1 space per 2 staff. Staff parking may be stacked or tandem parking with no more than 2 spaces in each tandem space

In other areas: 1 space per 4 children.

A reduction in car parking rates may be considered where:

- the proposal is an adaptive re-use of a heritage item*
- the site is in a B8 Metropolitan Zone or other high density business or residential zone*
- the site is in close proximity to high frequency and well connected public transport*
- the site is co-located or in proximity to other uses where parking is appropriately provided (egg business centres, schools, public open space, car parks)*
- there is sufficient on street parking available at appropriate times within proximity of the site.*

These requirements are based on RMS research, which also shows that for larger centres the parking demand drops below the above requirement.

R10 Accordingly, MAG requests that:

- **Clause 25 of the SEPP be amended by adding a part 2 (e) which reads:**
“(e) car parking provisions consistent with those described in Clause C31 of the Child care Planning guidelines.”
This would mean that if car parking complies with the CCPG the DA could not be refused.
- **Clause 26 of the SEPP be amendment to be consistent with the above**

6.3 Child care on first floor of stand alone 2 storey buildings.

As previously alluded to above Councils are becoming increasingly activist in regulating the design of child care centres, often outside their expertise. Some (such as Parramatta) have provisions in their DCPs to discourage children's play areas (and other activity spaces) on the first floor of two storey stand alone buildings in residential areas.

For the reasons explained by The Acoustic Group (Attachment A) and quoted at 5.6 above under Specific Concerns, MAG strongly believes that this should be prevented and that councils should not be able to be able to restrict outdoor play areas at the first floor.

R11 Accordingly, MAG requests that Clause 26 (1) of the SEPP be amended by the addition of a sub-clause reads:

26(1) (e) Anything that would prevent (or restrict) the location of children's indoor and outdoor areas within a centre that is not a specific requirement contained in the Child Care Planning guideline.

7 Conclusion

MAG has several concerns with the proposals outlined in the Statement of intended Effects:

- the potential erosion of the current uniform policy lead by the SEPP and the Child Care Planning Guidelines if all these changes are adopted.
- the introduction of more red tape and regulation that achieves no public benefits.
- the further intrusion of local government into an area that is the prime responsibility of the NSW DET'S Early Childhood Branch which is administering a uniform National Law.

Some of the changes proposed are not objected to, others need refinement and clarification and some are strongly objected to.

Also, there are several changes to the SEPP and CCPG that should be also made (as described above) to increase certainty.

F E Sartor
SPP Services Pty Ltd
17.12.2020



50.5434.L1:MSC

14 December 2020

SPP Services Pty Ltd
PO Box 556
BROADWAY NSW 2007

Attention: Mr F Sartor

REVIEW OF SEPP (EDUCATION) 2017 AND ASSOCIATED NSW CHILDCARE GUIDELINES.

The New South Wales Department of Planning, Industry and Environment has undertaken a review of SEPP (Educational Establishments and Childcare Facilities) 2017 and has issued for discussion purposes "Explanation of the Intended Effects" dated November 2020.

The document states that since the commencement of the SEPP the Department has received requests for information and undertook a review with the intent of amending the SEPP to improve the operation and usability of the SEPP.

From a noise perspective there are specific criteria issued by the EPA in relation to educational establishments (that being schools, TAFEs or childcare centres). This has presented issues in terms of alterations and additions to schools where the existing school may give rise to a noise impact on nearby properties.

Whilst subclause 6, Schedule 2 of the SEPP requires a new building or (if the development is an alteration or addition) an existing building is to be used for the purpose of the school or school-based childcare is to be designed so as to not emit noise exceeding an LAeq of 5 dB(A) above the background noise when measured at any lot boundary.

The review document identifies that there is confusion with respect to that definition and seeks to use wording to indicate the edge of the site (the school site).

In terms of general EPA criteria and noise criteria utilised by Council's time there is a conflict in that normally the assessment of noise impact on residential receivers is taken at the residential property boundary or at any affected point within that residential property.

Placing a restriction on an educational facility at the site boundary, where there can be roads or even a highway between the school and the critical receiver points can present a restriction in terms of the operation of the school and is inconsistent with EPA policies.

With respect to childcare planning guidelines, the draft version of the guideline issued for public comment had noise criteria, whereas the published guideline does not present any noise criteria.

As a result of the absence of any acoustic criteria by the EPA for noise from operational schools or child care centres (mechanical plant is normally assessed in accordance with EPA requirements) Councils have specified their own noise criteria, whilst an association of acoustic consultants (AAAC) presented their guideline which permits a concept of background +5 dB(A) at residential receivers for the operation of all children noise from the childcare centre during the day, or if outdoor play was restricted to less than two hours a day a limit of background +10 dB(A).

In September 2020 that guideline was amended to permit the background +10 dB(A) limit to apply for up to 4 hours a day.

For Applications before the Land and Environment Court of New South Wales the general approach in the absence of any specific government policy has been to use a Council DCP or the AAAC guideline.

However, clause 26 of the Education SEPP identified that any DCP is in existence that provided restrictions on childcare centres was no longer valid, leading to defacto situation of the AAAC guideline being the only acoustic document that has been available to the Court or Councils with respect to childcare centres.

Page 17 of the explanation document identifies the Department is seeking feedback in relation to separation distance of 200m between childcare centres to address cumulative amenity impacts. For the specified distance I do not see that there is a noise issue with respect to operation of the centre but where there is a separation distance less than 200 m I have observed issues in terms of traffic and parking during the course of our investigations.

The text refers to that in low density residential zones above ground floor outdoor play spaces can lead to impacts on local neighbours such as noise, and in addition raises impacts of overlooking into adjoining properties, noise emissions, visual amenity impacts and complications to emergency evacuation.

The provision of childcare centres in low density or medium residential zones often has buildings adjacent to the proposed childcare centre that are two story buildings and not the convention that generally occurred some 20 years ago of single-storey dwellings.



The consequence of having two story dwellings adjacent to a childcare centre has revealed that from a noise perspective the residential receivers overlook the childcare centres site. To protect the amenity of those receivers requires barriers around the external areas of outdoor play and presents a challenge with respect to maintaining the +5 dB(A) general concept with respect to noise emitted from outdoor play.

Where one has single-storey dwellings adjacent childcare centres then barriers to provide acoustic shielding of the outdoor play do not necessarily need to be as high as that for adjacent properties which have habitable areas above the ground floor level.

From a noise perspective the provision of outdoor play on the first floor of a childcare centre can actually improve the design of the building and reduce the bulk and scale of outdoor play areas in that the first-floor play area and can have screens or similar fitting in with the building form for the first floor area and provide a greater degree of acoustic shielding to adjoining properties with a first floor level than when compared to an outdoor ground floor play area.

The provision of opaque glazing or similar to a height of 1.5 m provides visual privacy from the children into an adjoining residential properties and also provides visual privacy of the children from the adjoining properties, which cannot necessarily occur with respect to the ground level outdoor play space.

From recent assessments of proposed childcare centres we have been able to identify that we can achieve a significantly better acoustic environment by the use of first floor outdoor play spaces when compared to having all children utilising a ground level outdoor play area.

Utilising a ground level outdoor play space may require acoustic screens up to 3 m in height and for some centres intermediate screens within the outdoor play area (so as to address noise emission from children in the centre of the play area that would be removed from the perimeter screens).

Therefore, in a practical sense the suggestion that first-floor outdoor play areas can lead to greater noise impacts than that of the ground level outdoor play spaces may be correct through poor design, but when the design is considered in terms of an acoustic amenity for the neighbours, then the application of first-floor play spaces provides a better acoustic solution.

On the projects we have worked on the first-floor play area is used by the older children in a childcare centre which addresses the matter of emergency excavation by leaving the small children and babies to the ground floor level.



I trust the above satisfies your immediate requirements.

Yours faithfully,

THE ACOUSTIC GROUP PTY LTD


STEVEN E. COOPER



21 December 2020

Mr Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
4 Parramatta Square
12 Darcy Street
PARRAMATTA NSW 2150

Dear Mr Betts,

Re: Response to the Review of the Education SEPP 2017

Firstly, we apologise for not submitting this response by the due date on 17 December 2020. And we thank the NSW Department of Planning, Industry and Environment for accepting this submission.

The Australian Childcare Alliance (ACA) NSW is the peak association representing the privately-owned early childhood education and care (ECEC) sector serving 1,600 services primarily across New South Wales. Our members employ over 25,000 staff and support over 125,000 families.

Since the draft exposure of then proposed *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (SEPP), ACA NSW has been concerned especially with:

- the removal of local councils' powers to impose proximity/separation requirements between proposed and existing early childhood education and care services;
- their inability to regulate over the impacts of larger services (for example over 100 children); and
- their inability to regulate how services will conduct actual emergency evacuations as well as quarterly rehearsals, especially for larger services.

In response to your Department's Explanation of Intended Effect (EIE) document, we offer the following for your kind consideration.

1. Allow Proximity/Separation Requirements (Ref: Page 7 of EIE document)

We are grateful that the Department is seeking to introduce of minimum separation between the proposed and existing early childhood education and care services.

However, ACA NSW believes this proposed requirement of 200 metres only in Low Density Residential zone (R2) would be inadequate.

Instead, the proposed requirement should be a minimum of 500 metres to even 1 kilometre regardless of Residential and Mixed-Use zones. By doing so, this should allow local councils to adequately manage the consequences on additional traffic and minimise the impact on the neighbouring communities, especially during drop-off and pick-up peak periods.

2. Regulating the impact from larger services (Note: Not in EIE document)

Although the maximum capacity of any early childhood education and care service is approved solely by the NSW Department of Education subject to the *Children (Education and Care Services) National Law (NSW) 2010* and the *Education and Care Services National Regulations (NSW)*, the reality is 1 January 2012, there is no maximum limit.

That said, the NSW limit prior to 2012 was 75. Currently, the largest capacity approved for any long daycare service is in NSW for 300 children.

As can be expected, larger services tend to have a direct impact on their neighbours and surrounds.

ACA NSW strongly asks the NSW Government to develop with local councils a new process to mitigate the impacts from larger services (eg over 100 children). Such impacts for local councils to consider include:

- traffic;
- local amenity to the surrounding neighbours;
- speed and effectiveness for emergency and evacuation;
- suitability of off-site locations for the gathering of larger numbers of children resulting from evacuations; and
- accommodation of mandatory emergency and evacuation practices every 3 months ([Regulation 97 of the Education and Care Services National Regulations \(NSW\)](#)).

These issues are also made more complex yet still important when considering early childhood education and care services, in particular children's safety, health and well-being, in multi-storey buildings and industrial zones.

3. Future planned amendments to the National Construction Code (Note: not in EIE document)

The Australian Building Codes Board (ABCB) had recently sought input on:

- a new definition(s) on building complexity (<https://consultation.abcb.gov.au/engagement/definition-for-building-complexity/>) and/or specific Performance Solution(s); and
- the need for a transparent and robust process for the approval of Performance Solutions for constructed building work (https://consultation.abcb.gov.au/engagement/building-design-acceptance/?utm_source=NCC+subscription+list+%5BAll%5D&utm_campaign=af4813b54f-EMAIL_CAMPAIGN_2020_11_12_03_23_COPY_02&utm_medium=email&utm_term=0_5e6389f8aa-af4813b54f-52652839)).

ACA NSW's concerns relate to what harmonisations will be made in anticipation of future amendments to the National Construction Code for early childhood education and care services in multi-storey buildings, especially as children (aged 0-5 years old) and their educators/carers traverse what are most likely common evacuation routes with the building's other tenants during any emergency and evacuation.

4. Request harmonisation of emergency-related requirements across multiple regulatory authorities (Note: not in EYE document)

Early childhood education and care services are too often at a disadvantage whenever no regulatory authority appears to definitively interpret and regulates the appropriate set of emergency-related requirements:

- the NSW Department of Planning through the SEPP;
- the ABCB via its National Construction Code; or
- the NSW Department of Education via its Regulation 97 of the Education and Care Services National Regulations (NSW) (see <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.97>).

Despite what are published as statutory instruments that can also overlap, regulatory authorities and/or their officers have been known to interpret them differently causing either deficiencies or incur higher capital and/or operational costs in order to impose best practice.

ACA NSW requests that as part of the Review of the SEPP, Planning NSW should harmonise regulatory making with the ABCB as well as the NSW Department of Education.

5. Proposed amendments to solar access minimum standards (Note: Page 18 of EIE document)

The proposed minimum standards of:

- 2 hours of solar access between 8 am and 4 pm in winter (21 March to 21 September); and
- 2.1 m² of outdoor space per child;

may cause confusion about the interpretation and implementation of solar access standards for services simulating outdoor spaces within multi-storey buildings.

Notwithstanding, it is also unclear as to whether local councils could still override the SEPP in favour of their tree preservation regulatory controls.

6. Request harmonisation with the impending proposed amendments following the Education Council's Review of the National Quality Framework (Note: not in EYE document)

As there is some overlap between the SEPP and the Education and Care Services National Regulations (NSW) (see <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653>), it is also worth pointing out that Australia's early childhood education and care sector is anticipating the release of the proposed amendments to the National Quality Framework in early 2021 (see <https://www.nqfreview.com.au/>).

ACA NSW requests that Planning NSW harmonise its efforts with the NSW Department of Education so as to achieve consistency, clarity and adequate specificity of government requirements.

We most sincerely thank you for the opportunity to make this submission and your kind consideration. We continue to be available to your Department should you require any further information, clarification and assistance.

Yours sincerely,



Chiang Lim
CEO

cc The Hon Rob Stokes MP, NSW Minister for Planning

The Hon Kevin Anderson MP, NSW Minister for Better Regulation and Innovation

All NSW-based local councils, their Mayors and Councillors

Ms Jennifer Richardson, Director, Infrastructure Policy and Assessment Practice,
Planning and Assessment, NSW Department of Planning, Industry and Environment

Mr Peter Achterstraat AM, NSW Productivity Commissioner

Mr Chris Lamont, NSW Small Business Commissioner

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Friday, 20 November 2020 12:05:43 PM

Submitted on Fri, 20/11/2020 - 12:04

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Peter

Last name

Robinson

I would like my submission to remain confidential

No

Info

Email

peter.robinson@northernbeaches.nsw.gov.au

Suburb/Town & Postcode

Dee Why

Submission

Serious concern is raised regarding the application of CDC for school building up to 22 metres high in, or adjoining R2 low density residential areas where the height limit is much lower, i.e. 8.5 metres.

The CDC does not require the public to be informed prior to approval, when such development can have a significant impact on surrounding development. 2 such cases existing in Dee Why and Brookvale that DPIE which have been brought to the attention of DPIE. CDC development for minor residential works must inform neighbouring properties. This SEPP permits buildings with a built form which is out of character with surrounding development without any form of consultation. Such development should not be available through a CDC

The setback requirements are inadequate for such heights from a visual impact concerns. Residential in their private open space are towered over by buildings almost 3 time taller than the max height there homes can be from a mini setback of 10 metres which is inadequate

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Monday, 30 November 2020 3:43:34 PM

Submitted on Mon, 30/11/2020 - 15:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

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Tom

Last name

Mojsiejuk

I would like my submission to remain confidential

No

Info

Email

tmojsiejuk@hornsby.nsw.gov.au

Suburb/Town & Postcode

Hornsby

Submission

Suggestions for Child Care Centre Guideline amendments:

- There should be FSR controls consistent with the complying development SEPP in R2 zones. There are many instances where the scale is not compatible with the low residential zone and many objections from the community.
- That there should be cap limit on children numbers based on site area, similar to complying development scale controls,
- There should be acoustic fence height controls to prevent 3m high fences. These are unsightly and can ruin the low density residential zone by providing blank and high fencing which are unsightly.
- That the 200m radius should include approved development,

I agree to the above statement

Yes



Department of Planning, Industry and Environment
Locked Bag 5022
Paramatta NSW 2124

23 December 2020

Ref No: D04090916

Dear Sir/Madam,

Draft Amendments State Environmental Planning Policy Education and Childcare Services

Thank you for the opportunity to comment on the proposed amendments to the *State Environmental Planning Policy (Education and Childcare Services)* (draft Education SEPP) and accompanying documentation. The SEPP, to date, has been an important initiative in streamlining the assessment and development of childcare and education facilities to address existing shortfalls associated with population growth, demographic changes and finite land opportunities across metropolitan Sydney.

As a general comment, Council acknowledges that education and childcare offer substantial socio-economic benefits to local communities from enhancing the health and well-being of children, to delivering employment opportunities and economic growth. It is contended, however, that any intervention in the planning system to facilitate these types of developments must be contingent on achieving sound land use planning, urban design and amenity outcomes.

The proposed amendments generally entail housekeeping matters that are aimed at providing greater clarity about the application of the SEPP, further streamlining the assessment process to make it easier to deliver new and upgraded childcare and education facilities, as well as minimising adverse amenity outcomes for adjoining residential areas. Randwick City is generally supportive of the proposed changes, with key issues of concern raised as follows:

Restricting Proximity of Childcare Centre in Low Density Residential Zones

The draft Education SEPP proposes a new minimum 200m separation distance provision between new and existing childcare centres. These anti clustering provisions are intended to assist in determining the appropriate location for a childcare centre in a low-density residential environment, and minimising adverse amenity impacts from closely located facilities.

The introduction of mandatory separation distances for childcare centre proposals is strongly supported, recognising the cumulative impacts of closely located facilities in residential areas, including potential for increased traffic generation, noise, and public (especially children's) safety associated with pick up and drop off. Non-discretionary separation distances would provide a balanced approach to minimising adverse impacts of childcare centres upon residential areas, while encouraging these types of developments in appropriate locations to support specific needs of families.

<p>English</p> <p>If you need help to understand this letter, please come to Council’s Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski uslužni centar za klijente (Council’s Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council’s Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye’nin Müşteri Hizmetleri Merkezi’ne gelip kendi dilinizde yardım isteyiniz veya 131 450’den Telefonla Tercüme Servisi’ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmás Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council’s Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المُساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務 (TIS) 聯繫，號碼是 131 450。請他們幫助你打電話給市政會，號碼是 1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

While the introduction separation distances are a step in the right direction, further clarity is sought on how this requirement would be practically applied. For instance, guidance is required on how separation distances would be measured (e.g. from a straight line from the allotment boundary or based on pedestrian sight lines?).

Furthermore, it is requested that the separation distance requirement be extended to other residential zones such as R3 Medium Density Residential zoned areas which would experience similar amenity impacts as childcare centres located in low-density residential neighbourhoods. These issues are made even more pertinent given the intensity of uses within medium density zoned residential areas which often exacerbate traffic generation and parking impacts.

Innovation Centres on Tertiary Campuses

The draft Education SEPP proposes to permit innovation hub activities on existing tertiary institutions as development with consent. These proposals are generally supported given that innovation hubs provide an important opportunity for collaboration, cross fertilisation of ideas and business development between the academic, private and public sectors which in turn provides economic benefits to the local community. It is imperative, however, that any such provisions are supplemented by appropriate planning guidelines to assist consent authorities in considering likely impacts of such developments.

Council has long recognised the important role of innovation hubs in the growth and diversification of the local economy as well as job creation. The K2K Planning Strategy, for instance, seeks to capitalise upon the proximity to the University of NSW by providing planning incentives for the establishment of innovation hubs at key strategic sites nearby in the Kensington and Kingsford town centres. Permitting appropriately designed innovation hubs as development with consent is a sensible approach and would help to make better use of talent, facilities and technologies to create jobs and support local economies.

Student Housing

The draft SEPP proposes to permit student housing with development consent by any person who obtains landowner's consent within the boundaries of an existing educational establishment. Moreover, it is proposed that any stand-alone student housing development within the boundary of a tertiary establishment would no longer be classified State Significant Development (SSD) irrespective of the CIV.

While no objections are raised in principle to student housing permissibility on educational establishments, the following issues are raised for consideration in the finalisation of the SEPP provisions:

- Clarification is sought regarding the difference between student housing (classified as 'ancillary development') under the current SEPP and 'stand-alone' under the proposed provisions;
- The SEPP needs to be absolutely clear that any student housing proposal within the boundaries of an educational establishment is to solely serve the purposes of that institution;
- Supplementary guidelines are required to assist councils in assessing student housing applications, similar to what is contemplated in the SEPP 65 Apartment Design Guide. In particular, guidance is required on appropriate minimum room sizes, natural ventilation, and solar access given these developments provide principle living arrangements for students for a substantial part of the year; and
- Further guidance is required on how smaller University owned sites would be addressed as part of these proposals as often these are located in residential areas that are vulnerable to impacts such as overshadowing and visual amenity.

Two Storey Buildings on Education Sites

The draft SEPP proposes to allow two storey facilities on schools and tertiary institution sites as development without consent. The SEPP currently restricts such developments to one storey.

Concerns are raised about the proposed changes, as the provisions do not adequately recognise the context in which a school or tertiary institution may be located. Many of Randwick City's educational establishments are located in residential areas and it is our experience that institutional buildings, regardless of their scale have the potential to create adverse amenity impacts on neighbouring properties such visual bulk, loss of solar access and acoustic privacy. To this end, it is requested that the existing provisions be retained and any proposals for buildings of two storeys or more be subject to a more rigorous assessment process so that any adverse amenity impacts upon neighbouring properties can be identified and appropriately managed.

Thank you for the opportunity to provide feedback on the draft Education SEPP. If you would like to discuss any of the matters raised in this submission, please do not hesitate to contact Stella Agagiotis, Acting Manager Strategic Planning on telephone 9093 6954.

Yours Sincerely,



Kerry Kyriacou

Director City Planning

Kerry.Kyriacou@randwick.nsw.gov.au

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Saturday, 5 December 2020 7:07:12 PM
Attachments: [nsw-pie-review-of-the-education-sepp-2017-_0.pdf](#)

Submitted on Sat, 05/12/2020 - 19:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Cornelis

Last name

Duba

I would like my submission to remain confidential

No

Info

Email

property.development@endeavourenergy.com.au

Suburb/Town & Postcode

Huntingwood 2148

Submission file

[nsw-pie-review-of-the-education-sepp-2017-_0.pdf](#)

Submission

Please refer to the attached "Submission file".

I agree to the above statement

Yes

Department of Planning, Industry and
Environment

Via online submission

Your Reference

Our Reference F2020/00024

Contact Robert Cologna

Telephone 9806 5144

Email rcologna@cityofparramatta.nsw.gov.au

24 December 2020

Dear Sir/Madam

RE: Exhibition of ISEPP and ESEPP amendments

I am writing to forward submissions on the exhibition of State Environmental Planning Policies relating to health infrastructure and education.

Thank you for the extension to make a submission on these matters by 24 December 2020.

These comments are based on Council resolutions where available, and otherwise represent the views of Council officers.

Should you have any questions, please contact Robert Cologna (A/ Group Manager City Planning) at the contact details at the top of this letter.

Regards,



David Birds

A/ Executive Director City Planning & Design

Contact us:

council@cityofparramatta.nsw.gov.au | 02 9806 5050
@cityofparramatta | PO Box 32, Parramatta, NSW 2124
ABN 49 907 174 773 | cityofparramatta.nsw.gov.au

DRAFT COUNCIL OFFICER COMMENTS ON CRITICAL ISSUES

Note: the full document has been reviewed by Council Officers and the below table provides comment on the critical changes. Council officers note the changes appear to be mostly administrative in nature e.g. updating department names, cross referencing.

Proposed change	Short summary of description of issue and proposed change provided by Council Officer	Council Officer comment
<i>Applicable legislation or other documentation: SEPP (Educational Establishments and Child Care Facilities) 2017</i>		
<i>Restricting child care centres within close proximity of each other in low density residential zones</i>	Introduce a minimum separation of 200m between child care centres in low density residential zones (R1, R2) to address the key concerns of noise and traffic.	<p>Supported.</p> <p>This is consistent with the recommendation of the PDCP 2011 of 200m separation.</p>
<i>Bush fire prone land</i>	Amendment which restricts the application of clauses/schedules relating to bush-fire prone land only where the development is taking place on bush-fire prone land (as opposed to on a lot which is partly bushfire prone, but not the part that is in the development site).	<p>In principle support, noting comments.</p> <p>Council Officers understand some clauses and requirements of bush fire prone land might result in vegetative clearing and unnecessary loss of ecology, however we also have concerns on safety as fire modelling is only an indication, and natural disasters can be uncontrollable and result in loss of human life or injury.</p> <p>Whilst it is noted that it is not relevant to the majority of school infrastructure in City of Parramatta, Officers recommend consideration be given to detailing further risk management measures and parameters around the site versus rather than just ecology (clearing trees).</p> <p>Officers suggest parameters be introduced as risk averse approaches should be used and maintain development assessment rigor relating to bushfires and schools. Parameters to improve rigor, reduce unnecessary tree clearing and protect occupants of the school could include ascertaining the proportion of the site that is bush fire prone and introducing a minimum separation of the development site from bushfire prone land, the efficacy of escape and evacuation routes and assembly points/refuges, etc.</p>

Proposed change	Short summary of description of issue and proposed change provided by Council Officer	Council Officer comment
<i>Enabling student housing on sites with existing educational establishments</i>	Enabling student housing (only) to be developed on sites with existing educational establishments (relates to introduction of purpose-built student housing as a land use as proposed in the Housing Diversity SEPP amendment)	<p>In principle support, noting comments.</p> <p>An increase in purpose-built student housing is supported to meet the need of tertiary students, those from overseas in particular, however Council Officers have concerns this reduces the availability of space for students and could result in crowding out true educational uses and necessary associated open space.</p>
<i>School development permitted without consent for two-storey buildings</i>	It is proposed to amend Clause 36 to permit a (overall maximum) two storey school facility (e.g. library, classroom, cafeteria, etc) to be permitted by or on behalf of a public authority without development consent on land within the boundaries of an existing school. The provision for car parking within this clause being only one storey also remains unchanged.	<p>In principle support, noting comments.</p> <p>Two storeys without consent in some zones may be of concern – privacy, overlooking, noise impacts, etc. However, it is noted multi-storey school facilities can introduce positive outcomes as they can expand open space opportunities. Officers seek to ensure development assessment rigor. Assessment should be site specific and consider surrounding height limits, zoning and density.</p> <p>While the various amendments proposed are relatively minor, Council Officers are concerned about the general policy trend of continued expansion of “code development” (i.e. development without consent, complying development, exempt development). Expanding code development decreases communities’ input into decision-making processes for developments that impact on them and their neighbourhoods.</p>
<i>Timeframes for short-term portable classrooms (e.g. demountables) as exempt development</i>	Amend Subclause 38(1)(l)(iii) Allow short-term portable classrooms for 48 months rather than 24 months as exempt development to provide schools with more security for their classrooms and flexibility to manage structures and accommodate fluctuating student numbers.	<p>Not supported.</p> <p>Four years is not considered short term and is not considered best practice infrastructure planning.</p> <p>Demountables often remove open space and natural shade for children’s and staff’s use and create reliance on air conditioning/ mechanical ventilation. The recent school microclimates report by WSU, NSW Government and Macquarie University raises the importance of reducing heat impacts of heat on the health and wellbeing of school children and staff.</p>

Proposed change	Short summary of description of issue and proposed change provided by Council Officer	Council Officer comment
		<p>Extended use of demountables should only be available if mitigation opportunities are included. Ideally, an extension to 48 months should require development consent so that these mitigations are included for the extended life of the structure.</p> <p>Regarding loss of green space as a result of additional demountables, there is the potential to require demountables to be placed on existing hard surfaces – or to have a proportion of the building on hard surfaces. This would reduce the impact to natural play spaces, but also provide cooling of the site through retaining grassed areas.</p> <p>There are several possible measures that could reduce the impact of heat within and generated from demountables as per the Schools Microclimate report referenced above:</p> <ul style="list-style-type: none"> • Location of mechanical heating/cooling exhaust vents to be on the roof – removing the heat source from areas where children, or members of the public, are likely to be (pg. 50). • Inclusion of cool roof systems – high albedo roofing, increased shading of roofs (pg. 50) • Given the extended time frame for demountables, the requirement of planting of high canopy trees along the western and northern sides of the demountables would be advantageous. It would be valuable to know the number of demountables which are replaced with more permanent structures in the same locations. The planting of high canopy trees would provide ‘instant’ canopy shading for any new buildings in this case (suitable trees (for Western Sydney) are included on pg. 47).
<p><i>Tertiary institution development permitted without consent for two-storey buildings</i></p>	<p>To allow (overall maximum) two storey facility (e.g. library, teaching or education facility, cafeteria, etc) to be permitted by or on behalf of a public authority without development consent on land within the boundaries of an existing tertiary institution. Provision for car parking within this clause being only one storey will remain unchanged.</p>	<p>In principle support, noting comments.</p> <p>Two storeys without consent in some zones may be of concern – privacy, overlooking, noise impacts, etc. However, it is noted multi-storey school facilities can introduce positive outcomes as they can expand open space opportunities. Council officers seek to ensure</p>

Proposed change	Short summary of description of issue and proposed change provided by Council Officer	Council Officer comment
	Amendments to the development standards and caps related to floor space ratio, and gross floor area are proposed in order to enable the second storey whilst ensuring development has a low impact.	<p>development assessment rigor; assessment should be site specific and consider surrounding height limits zoning and density.</p> <p>While the various amendments proposed are relatively minor, Council Officers are concerned about the general policy trend of continued expansion of “code development” (i.e. development without consent, complying development, exempt development). Expanding code development decreases communities’ input into decision-making processes for developments that impact on them and their neighbourhoods.</p>
<i>Innovation spaces/hubs within existing tertiary institutions</i>	Permit “innovation hubs” and activities associated with the tertiary institution development with consent; likely to include commercial uses associated with the institution. Aim is to support innovation and commercialisation through the cross-fertilisation of ideas between the academic sector and the private and/or public sector.	<p>In principle support, noting comments.</p> <p>Council Officers support the innovation hub concept and the opportunity for a greater connection between education and commercial opportunities, however true educational land use should not be eroded by commercial uses.</p>
Applicable legislation or other documentation: <i>State Environmental Planning Policy (State and Regional Development) 2011</i>		
<i>Threshold triggers for State significant development</i>	<p>The current capital investment values are capturing small scale schools and tertiary institutions that are not considered to be of State significance. Proposed amendments:</p> <ul style="list-style-type: none"> • Introduce a requirement for the capital investment value for new schools to be \$20 million (previously no value set), with any new schools with a value less than \$20 million to be assessed by local Council rather than as a State significant development (this is more applicable to small scale schools e.g. <20 students) • Increase capital investment value for alterations and additions to existing schools from \$20 million to \$50 million and to permit demolition and redevelopment of an existing school via this clause. • Increase the capital investment value for tertiary institutions from \$30 million to \$50 million. Tertiary institutions that do not trigger the capital investment value will be assessed by the local council as local development. 	<p>Support.</p> <p>The amendments will result in more control of the assessment process for Council, but additional resources will be required by Council to assess the proposals that would otherwise be assessed by the State Government.</p> <p>It is not possible to predict the number of additional applications that will be assessed by Council but the impact on Council resources is not expected to be significant.</p> <p>Council Officers broadly support this intention.</p>

Proposed change	Short summary of description of issue and proposed change provided by Council Officer	Council Officer comment
Applicable legislation or other documentation: Child Care Planning Guideline		
<i>Fire safety provisions for multi-storey child care centres and centres in multi storey buildings</i>	Revise Child Care Planning Guideline in alignment with a National Policy amendment (National Construction Code, effective from on 1 July 2020) to improve guidance for fire safety, emergency and evacuation requirements in child care facilities in multi-storey development.	Support. Council would like to be consulted during any engagement to improve guidance.
<i>Site suitability guidance amenity impacts in low density residential areas</i>	<p>This update to the Child Care Planning Guideline will provide greater clarity on site suitability assessment and will also support the Education SEPP.</p> <p>The Department is seeking feedback on a proposed separation distance of 200m between child care centres to address cumulative amenity impacts, and support that with amendment to the Child Care Planning Guideline providing advice on cumulative impact assessment in Low Density Residential zones – R2.</p> <p>The Department also proposes to provide further advice to improve the regulation of outdoor play spaces above ground floor in Low Density Residential zones – R2. Impacts that may be considered include overlooking into adjoining properties, noise emissions, visual amenity impacts (e.g. additional building bulk and scale, character and overshadowing) and complications to emergency evacuation.</p>	Support. This is consistent with the recommendation of the PDCP 2011 of 200m separation.

14 December 2020

Dear Sir/Madam

Submission – Review of Education SEPP 2017

Council staff welcome the opportunity to provide comment on this important matter and supports the principle aim of the review of *State Environmental Planning Policy – Educational Establishments and Child Care Facilities 2017 (Education SEPP)*.

General Comments

Considerable documentation was required to be reviewed in order for Council to provide a thorough and appropriate response to the Departments proposals. As you can appreciate, the submission process takes time to coordinate comments from multiple sections in Council. For this reason, it is prudent that future timeframes for comment deadlines are extended, not only in order to provide an appropriate submission but to allow the submission to go through the formal Council reporting processes so that it is the endorsed Council position.

Given the short timeframe to comment, this submission does not necessarily reflect the views of the elected Council given that it was not able to be reported.

At a broad level, Council staff note that the Review of the Education SEPP's Explanation of Intended Effects (EIE) was disjointed and inconsistent to read. Unlike the SEPP Infrastructure's (Amendment – Health Services Facilities) EIE, the consent mechanisms for the additional provisions were unclear, which made certain proposed amendments to provisions difficult to comprehend.

Additionally, with the increasing range of exempt and complying development and development without consent opportunities, the broader community is slowly having fewer opportunities to have a say, particularly with regard to the legislative changes. The community does not often understand policy or strategic planning processes or buy in at this stage, but they do understand when something is built next to them or when there are a set of architectural drawings showing what is proposed.

Generally, staff welcome a number of the proposed amendments to the Education SEPP that clarify existing provisions, improve interpretation of original intentions and reduces inconsistencies across the State Environmental Planning Policies (SEPPs). Staff do, however, have a number of concerns in regard to certain proposed amendments that are expressed below.

Proposed Changes to the Education SEPP

Clarifying circumstances where schools can be expanded

Whilst staff acknowledge the necessity for the expansion of facilities where they adjoin a zone that the land use is not permissible, the provision should only apply to prescribed State land or land prescribed for a public purpose.

Enabling student housing on sites with an existing educational establishment

We re-iterate comments from Shoalhaven's submission to the proposed Housing Diversity SEPP, that the definition of *student housing* should relate to '*educational establishments*'.

Whilst the Proposed Housing Diversity SEPP EIE refers to the intent of the land use being to provide for university students, this should be clarified in the definition (e.g. referring to tertiary education, for fee-paying students or the like). The requested clarification will ensure loopholes are not created that could allow student housing to be considered adjacent to primary or secondary schools or colleges for example.

School development permitted without consent for two-storey buildings

Staff generally support the proposed amendment to clause 36 to permit a (overall maximum) two storey facility to be permitted by or on behalf of a public authority without development consent within the boundaries of an existing school. Whilst staff support the provision for car parking within the clause to remain one storey, this must be restricted to those example uses and not expanded to accommodation (in the instance of private schools).

A qualifying clause may be appropriate where locational design criteria is outlined where the proposed site adjoins single storey residential dwellings. Design criteria could be similar to those development standards and diagrams that appear in Code SEPP. This would prevent a two storey educational establishment being developed next to single storey dwellings, ensuring the retention of privacy and limiting the potential negative overshadowing of privately owned adjoining dwellings and poor design outcomes.

Timeframes for short-term portable classrooms (e.g. demountables) as exempt development

Staff welcome the proposed amendment to subclause 38(1)(l)(iii) to increase the timeframe for short-term portable classrooms from 24 months to 48 months; particularly for buildings and schools that have been affected by natural disasters such as flooding or those requiring maintenance. However, staff note that whilst this amendment is positive, it does highlight the need for continued investment in public schools where structures are dilapidated.

External property boundaries

Staff appreciate the confusion that surrounds the existing terminology around property boundaries and express a preference to amend all references from "property boundary" to "site boundary." As "site boundary" encapsulates educational establishments that may be located over multiple lots.

Tertiary institution development permitted without consent for two-storey buildings

The changes proposed for schools to undertake development permitted without consent to a maximum of two storeys is generally supported by staff. Although, as discussed previously, staff request a qualifying clause that includes locational and design criteria to prevent poor

design outcomes and detrimental impacts on adjoining existing residential areas, such as overshadowing and privacy impacts.

Measuring noise impacts for complying development

Staff support the proposed amendment to remove the words “at any lot boundary” and express a preference to replace these references with “site boundary” to reflect that the measurements are taken at the edge of the site. Despite the general support, Council staff question how it will be monitored; given that works must not be louder than 5 dB(A) above the rating background level on a daily basis? Requirements for sound equipment should be explicit, not assumed.

Allowing geotechnical investigations and other testing, surveying and sampling as exempt development

The proposed amendment to Schedule 1 of the Education SEPP to allow the above mentioned investigations as exempt development is generally supported by staff; however, it is essential that the SEPP is explicit in outlining that where core sampling is undertaken and a relic is discovered, due diligence is required in accordance with Division 9 of the *Heritage Act 1977*, in addition to investigations not involving greater disturbance of the ground or vegetation and not resulting in an increase in stormwater drainage or run-off. This is particularly important in regional areas and areas where there is known high indigenous heritage values.

Proposed changes to supporting education and childcare facilities documentation

Child Care Planning Guideline – Site suitability guidance amenity impacts in low density residential areas

Council staff generally support the proposed separation distance of 200m between Child Care centres to address cumulative amenity impacts. Child Care facilities generate parking issues and traffic congestion, particularly during drop-off and pick-up timings. The introduction of a proposed separation distance between facilities will assist in reducing these negative impacts.

Child Care Planning Guideline – Consistent fence heights

Staff support the proposed minor amendment which reduces inconsistency between the text and figure within the Guideline.

An exemptions clause would be helpful to ensure that where a Child Care facility adjoins a property with a pool, the fence height should be compliant with the Swimming Pools Regulations 2018 and Australian Standard (of a 1.8m boundary fence).

If you need further information about this matter, please contact Emma Kell, City Futures on (02) 4429 3213. Please quote Council’s reference 31157E (D20/549927).

Yours faithfully



Jenna Tague
Coordinator – Policy Planning Team



Contact: Elizabeth Workman on 9725 0292
Our ref: A4238421

14 December 2020

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Review of the Education SEPP 2017

Dear Sir/Madam,

Reference is made to the current public exhibition of proposed amendments to the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (the Education SEPP). Council generally supports the proposed amendments as outlined in the Explanation of Intended Effects that are aimed at improving the operation, efficiency and usability of the SEPP and its supporting documents.

The following outlines Council's comments in relation to the proposed changes to the SEPP and supporting documents. In general, the majority of proposed amendments are supported as they clarify existing provisions and provide additional controls where needed however the following areas are highlighted as issues requiring further clarification and/or consideration from the Department:

- 1. New provisions to prevent child care centres within close proximity of each other in low density residential (R2) zones** – This proposed control is supported however the suggested minimum separation distance of 200 metres between centres requires clarification. Specifically, is this distance measured by road or direct aerial distance? How will the provisions relate to an existing centre say in an R3 Medium Density zone that may be within 200m of a proposed centre in an R2 Low Density zone?

In either case, to avoid uncertainty, Council recommends that the distance be measured as a direct aerial distance to ensure provision of adequate separation between childcare centres and to avoid misinterpretation of the requirement.

Council often receives submissions with respect to having 'too many' child care centres within close proximity of one another which disrupts traffic, parking and amenity within local neighborhoods. Up until now, Council has not been able to refer to any anti-clustering or site analysis controls which would restrict the location of centres and assist with managing and maintaining amenity within the R2 Low Density Residential zone.

If sufficient guidance is provided in relation to this amendment and applying this control then this is likely to have a positive impact in terms of assessing applications.

- 2. Extended timeframes for short-term portable classrooms as exempt development** – the current timeframe of 2 years for portable classrooms is considered adequate. A 4-year timeframe for the erection of portable classrooms as exempt development is considered excessive and requires further explanation for the community and assessment of the longer-term impacts of this proposal.



This includes the impacts of multiple portable classrooms on such issues as the availability for playground areas, provision of adequate landscaping and green areas, levels of amenity afforded to students and impacts on amenity of adjoining residential properties.

To ensure certainty in minimizing impacts of this proposal, it is recommended that the same criteria be applied to portable classrooms as 2 storey school buildings, that provision of portable classrooms should not result in any change to DA conditions of approval relating to provision of car parking and limits on the number of students.

3. **Childcare Planning Guideline Site suitability guidance amenity impacts in low density residential areas** – This proposed change is strongly supported. Regulation is required in order to manage and control the impacts of multi-storey child care centres and particularly centres containing above ground outdoor play areas within the R2 Low Density Residential zone.

Complex and intensive acoustic mitigation and construction measures are required to minimise noise impacts which then result in bulk/scale and character issues and can also affect solar access and cross flow achieved within first floor indoor play rooms.

Councils experience with above ground outdoor play areas has required thorough (and unguided) assessment and the establishment of very specific and stringent management and mitigation measures including fencing, additional roof features or awnings to the above ground outdoor play areas – which essentially become enclosed balconies.

The amenity impacts to adjoining properties is exacerbated when located above ground and the design solutions required to remedy the loss of solar access and cross ventilation once the acoustic walls/balustrades and awnings are provided are extremely complex/unworkable and difficult to achieve in most circumstances.

Thank you for considering Council's comments on the proposed changes to the Education SEPP and supporting documents.

The majority of proposed amendments are supported however, clarification is required in relation to several issues as outlined in this submission. If you have any questions or queries please contact Elizabeth Workman - Senior Strategic Land Use Planner on 9725 0292.

Yours faithfully

Andrew Mooney
ACTING MANAGER STRATEGIC LAND USE PLANNING

Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

22 December 2020

Our Reference: URB/08/1/4/3/3

City of Ryde Council Submission: Review of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

I write in response to the Department of Planning, Industry and Environment's (the Department's) request for feedback on the proposed reforms to the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Education SEPP).

City of Ryde Council Staff (Council) have reviewed the 'Review of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 - Explanation of Intended Effect' (EIE) and made comment on the proposed changes that are most pertinent to the City of Ryde in **Attachment 1**. The absence of a comment in response to one of the proposed changes to the Education SEPP does not infer support for the proposed change; and it does not remove Council's ability to comment on the proposed change at a later date.

The EIE advises the proposed changes to the Education SEPP are in response to requests from key stakeholders (such as the Department of Education) to streamline the planning pathway for local school development. Council welcomes planning reform to simplify and create a more timely, certain, and transparent planning system. However, any changes to planning policy should ensure adherence to the intention and objectives of the Education SEPP; and the State Government's commitment to delivering sustainable, productive, and liveable communities across Greater Sydney.

As discussed in **Attachment 1**, Council does not support the following proposed changes:

Clarifying permissible uses on State land to permit adjoining local planning provisions to apply to educational establishments.

Allowing additional permitted uses (particularly residential uses) on educational establishments places additional demand on surrounding infrastructure and has no regard to the cumulative impact this additional permitted use would have on gross residential floorspace and dwelling numbers across the LGA. It also threatens the future of these sites by permitting uses contrary to the objectives of the SP2 Infrastructure zone (which sites with educational establishments are commonly zoned in the City of Ryde). Such changes should be undertaken on a site by site basis via the Planning Proposal process to ensure consistency with the strategic framework and the local communities vision and expectations.



The use of Site Compatibility Certificates to permit additional uses


The use of the Site Compatibility Certificate (SCC) process to allow adjoining local provisions to apply on the land accommodating an educational establishment, or to expand educational establishments onto adjoining land, is not considered the appropriate planning pathway to adequately assess the strategic merits of a proposal. The SCC process sidesteps the Planning Proposal process that is designed to ensure permissibility questions are answered in accordance with the strategic objectives and priorities established in the planning framework. Without a proper strategic merits assessment, SCCs can result in poor land use and built form outcomes.

Use of a 200m 'buffer' to reduce clustering of child care centres in low density areas

A separation of 200m between child care centres within an R2 Low Density Residential zone is not considered to be sufficient in mitigating traffic implications. The permissibility of child care centres in the R2 zone should be removed from the Education SEPP and reinstated to local Councils to assess their suitability and compatibility with surrounding land uses and within the local road network. This would assist in managing the 'clustering' of child care centres; will help manage localised traffic issues; and would respond to local planning considerations.

Other concerns are raised within **Attachment 1** relate to:

- student housing on sites within existing educational establishments;
- timeframes for short-term portable classrooms (e.g. demountables) as exempt development;
- school development and tertiary institution development permitted without consent for two-storey buildings; and
- innovation spaces/hubs within existing tertiary institutions.

If the Department has any questions regarding any of the matters raised in this submission, please contact 

We welcome the opportunity to work collaboratively moving forward to ensure any changes in policy deliver on the State Government's commitment to delivering sustainable, productive and liveable communities across Greater Sydney.

Regards,



Liz Coad
Director City Planning and Environment

ATTACHMENT 1

Amendment to the definition of 'educational establishment'

The EIE outlines that changes are proposed to the definition of 'educational establishment' in the Education SEPP to clarify the assessment pathway for existing schools proposing to:

- establish a separate new school campus at a new location, or
- establish a new recreational facility located some distance from the school buildings.

The proposed change is to ensure new school facilities or campuses are assessed as a new development, as opposed to an alteration or addition to an existing development (i.e. the existing school), which the current definition of 'educational establishment' permits.

Council supports amending the definition to ensure all new school facilities or campuses are assessed as new development on a site-by-site basis. This is to ensure adequate consideration is given to individual site constraints, land use permissibility, and the strategic merits of the proposal. This will help ensure any new development is compatible with surrounding land use and built form, which may be compromised if assessing new development as an alteration or addition to an existing school facility or campus located at some distance from the new development.

Clarifying permissible uses on State land

Council does not support the proposed changes to Clause 16 of the Education SEPP that relates to permitted additional uses on State land. It is Council's understanding that the proposed changes would allow the local planning provisions that apply to land directly adjoining an existing educational establishment to apply to the land where the existing education establishment is situated if:

- a Site Compatibility Certificate has been issued; and
- the existing educational establishment is on State land.

In the City of Ryde, educational establishments are primarily located within well-established residential neighbourhoods. Under the proposed amendments to the Education SEPP, additional residential development would be permitted within an existing educational establishment with no consideration to the cumulative impact this additional permitted use would have on gross residential floorspace and dwelling numbers within these neighbourhoods. Nor would there be appropriate consideration of the role these neighbourhoods play within the wider LGA as articulated in Local Strategic Planning Statements and Local Housing Strategies. This will undermine the evidence-based local housing policies and strategic planning frameworks that Councils have prepared with close reference to housing demand, critical infrastructure provision and capacity, and the principles and objectives of the relevant District Plan.

Further, the application of adjoining 'local provisions' on an educational establishment needs to be clearly defined to help ensure suitable development outcomes. Whilst the EIE says the residential development component will still be subject to the provisions of the relevant LEP, it is not clear how this would specifically be applied. For example, if an educational

establishment is adjoined in part by R4 High Density Residential, B4 Mixed Use, and R2 Low Density Residential, what suite of local planning provisions would apply to the land? The practicality of the proposed clause needs to be explained in the EIE. Adopting the adjoining zone allowing the “highest and best use” or adopting the nearest zone to the proposed development may not achieve appropriate outcomes due to site specific conditions. Again, a Planning Proposal process is considered a more appropriate mechanism should current school and education sites be identified for potential residential development.

No evidence has been provided within the EIE as to the rationale for this amendment to the Education SEPP and the necessity for permitting education establishments to ‘mirror’ the land use and built form controls of the adjoining land other than that *“this amendment will assist with the interpretation and usability of the Education SEPP”*. It is not explained as to how this amendment would assist in the interpretation and usability of the SEPP.

Undermining the intention of the Education SEPP and SP2 Zoning

Council is of the opinion that the proposed change will undermine the intention of the Education SEPP which was introduced to ‘streamline’ the approval process to deliver early childhood education and care facilities, schools, TAFEs and Universities in appropriate locations across NSW. Allowing additional permitted uses (particularly residential uses), not only places additional demand on surrounding infrastructure, but also threatens the future of these sites by permitting uses contrary to the objectives of the SP2 Infrastructure zone (which sites with educational establishments are commonly zoned). The objectives of the SP2 zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To ensure the orderly development of land so as to minimise any adverse effect of development on other land uses.

The City of Ryde has a number of significant educational establishments, including the Meadowbank Education and Employment Precinct, which Council and the local community have planned for as education focused sites. It is not considered appropriate that these sites be allowed to be repurposed without the appropriate process for the community to consider and respond to proposed residential uses.

In addition, there are a number of educational facilities where Council has entered into an agreement with the Department of Education for the shared use of their open space and recreation facilities (for example, Smalls Road Public School). Under the proposed reforms, this open space is under threat and may result in the loss of valuable open space utilised by both schools and the broader community. Further, the potential for residential development in the future may discourage the establishment of new agreements, not only displacing potential open space, but also further exacerbating the undersupply of available open space by increasing the demand.

The EIE raises that NSW is facing unprecedented growth, which is placing pressure on our social infrastructure, including schools, child-care facilities and all levels of our education system. In response to the demand for these essential services and uses, the planning

system should be designed to protect and 'safeguard' sites that permit educational establishments to ensure sufficient land is available for these uses in the future. The proposed planning reforms will undermine and dilute the objectives of the zone and reduce land that could be used for much needed open space, recreational and sport facilities, and community assets.

Education communities are increasingly required to utilise Council owned and managed playing fields for school sport and sport education activities. This places additional demand on land that is already under significant pressure from the growing community, and as a result, generates higher maintenance costs to ensure the facilities are adequately maintained for public use. Insufficient open space on educational facilities is an existing issue which will be exacerbated by the proposed changes to the Education SEPP. A mechanism should be included within the Education SEPP to reflect the requirements of NSW Education Facilities Standards and Guidelines for the provision of sport and recreation facilities to mandate their delivery in the future. As school and education sites are upgraded, rather than allowing any land made available more efficient use of the site to be used for residential development, consideration should be given for that land to be used for more pressing needs such as open space, particularly in local areas where Local Housing Strategies and Local Strategic Planning Statements are in place to sufficiently address residential supply without the need for delivery of dwellings on currently zoned SP2 land.

In addition, the comprehensiveness of the EIE would be improved with discussion of any minimum requirements the Department of Education has for open space within school sites, and the status of these requirements (i.e. are they a guideline only or are they mandated). A discussion on how these requirements would be impacted by the proposed reforms to the Education SEPP should also be included for completeness to understand the full impact of the proposed changes on the provision of open space on school sites.

Undermining evidence-based local housing policies

As discussed above, permitting residential uses on State owned sites that contain educational establishments will inevitably result in floorspace being used to deliver additional housing that is not strategically justifiable in the City of Ryde, and in excess of the prescribed dwelling targets. There is no discussion in relation to the current capacity of the planning controls in LEPs across Greater Sydney to justify the need to permit residential uses within education establishments.

The City of Ryde is exceeding its dwelling targets, and additional development capacity under the planning controls is not required to meet the targets prescribed by the State Government under the Northern District Plan. The North District Plan set a target of 7,600 dwellings in Ryde by 2021, and Council is on track to deliver 12,786 homes by 2021 (according to development approvals). This was made apparent during the preparation of the City of Ryde Local Strategic Planning Statement (LSPS), which is the 20 land use planning vision that responds to the State's regional planning framework and growth targets. Council has also prepared a draft Local Housing Strategy and will not require additional development capacity to keep pace with growth foreshadowed to 2036.

Given all Councils across NSW have been required to prepare a Local Strategic Planning Statement (LSPS) and Local Housing Strategies, this 'stocktake' against State dwelling

targets would be readily available to understand how Councils are currently performing and whether additional capacity under the planning framework is needed to meet housing targets. In addition, as discussed above, growth in housing needs to be adequately matched with the delivery of critical regional and local infrastructure to ensure the vision for Greater Sydney to be productive, sustainable and liveable is achieved. Council's LSPS identified there is an existing deficit in infrastructure across the City of Ryde under the current planning framework (not accounting for any additional residential development that would likely result from the proposed planning reforms). Therefore, if the proposed reforms proceed in their current form, the infrastructure deficit will be further exacerbated.

Site Compatibility Certificate

The use of the Site Compatibility Certificate (SCC) process to allow adjoining local provisions to apply on the land accommodating an educational establishment is not considered the appropriate mechanism to assess the strategic merits of the proposal. Council's strategic planning concerns with the SCC process are discussed below.

Clarifying circumstances where schools can be expanded

The proposed amendments to the Education SEPP seek to allow an existing educational establishment to expand on adjoining land where educational establishments would otherwise be prohibited by the zoning, provided that a Site Compatibility Certificate (SCC) is issued and it is on State land.

Whilst Council is supportive of pursuing necessary expansion of education facilities where required, the process to permit this (i.e. the SCC process) is not supported by Council.

As raised in Council's submission to the proposed Housing Diversity SEPP, SCCs present a myriad of planning issues as the SCC process sidesteps the Planning Proposal process and is less effective in ensuring relevant strategic, permissibility, and impact questions are answered in accordance with the strategic objectives and priorities established in the planning framework. A Planning Proposal involves a detailed assessment of site constraints, surrounding land use compatibility, and alignment with the local and state strategic planning framework (including the Ministerial Directions).

The SCC process does not adequately address these considerations and therefore results in Development Applications being assessed on a site where the land use is not permitted. Surrounding land uses may be set on the assumption that currently zoned SP2 land will be retained and potentially expanded over time, for the current purposes. Using the SCC process in the manner proposed risks unsuitable development outcomes (often not in public interest) and poor design outcomes. This may also undermine community confidence in the strategic planning framework particularly should the SCC process result in the relevant consent authority having to negotiate development standards in order to determine DAs on a site where the use may not be permissible under the LEP.

In addition, the SCC process does not include community consultation to provide key stakeholders and the community with the opportunity to consider the land use suitability and strategic merits of the proposed use prior to the DA stage. Whilst adjoining landowners will

receive notice of a DA for a site where a SCC is issued, this does not address the land use considerations.

It is recommended that the SCC process be aligned with the Planning Proposal process to ensure the suitability of the land use be adequately assessed, and consulted with the community, before a DA is lodged. This will also assist in streamlining the DA assessment process as adequate consideration of permissibility and compatibility has been carried out upfront, before the DA is lodged.

Restricting child care centres within close proximity of each other in low density residential zones

The amendments to the Education SEPP seek to introduce provisions to prevent child-care centres being located within close proximity of each other in the R2 Low Density Residential areas. The reforms propose a 200m distance between child care centres to provide an adequate separation between centres. This proposed amendment is in response to community concerns around the impact 'clusters' of child care centres have on local amenity, noise, and traffic.

Council reiterates concern over the cumulative impact of the 'clustering' of child care centres on the operation of the local road network. A separation of 200m between child care centres within an R2 Low Density Residential zone is not considered to be sufficient in mitigating any traffic implications generated by trips arising from school pickup and drop-offs; nor would it address the issues associated with on-street staff parking that affect the surrounding residential amenity. A 'blanket' minimum distance is difficult to apply as child care centres (like schools) should be separated based on the size of the catchment area, and where they draw their students from, in order to minimise the risk of cumulative impacts on surrounding amenity. Ideally child care centres should be collocated with a school campus, or very close to a school campus, to encourage combined vehicle trips due to the complementary nature of the land uses. This would help mitigate traffic impacts if delivered with appropriately designed upgrades.

It is Council's view that the traffic challenges that have arisen under the SEPP and that these changes seek to address speak to the questionable suitability of permitting child care centres in all R2 Low Density Residential zones. The permissibility of child care centres in the R2 zone should be removed from the Education SEPP and reinstated to local Councils to assess their suitability and compatibility with surrounding land uses and within the local road network. This would greatly assist in managing the 'clustering' of child care centres, will help manage localised traffic issues, and would respond to local planning considerations.

Enabling student housing on sites within existing educational establishments

Amendments to the Education SEPP are sought to permit 'student housing' on existing education establishments as defined by the proposed Housing Diversity SEPP (which was in exhibition from 29 July 2020 to 9 September 2020). Council provided a detailed submission to the proposed Housing Diversity SEPP. The Housing Diversity SEPP EIE detailed that a specific definition for 'student housing' is required to distinguish it from a 'boarding house' under the provisions of an LEP. The intention of this is to address the community's issues

relating to parking rates, local character compatibility, and the lack of affordability associated with boarding houses.

Council is of the opinion that the introduction of a new definition for 'student housing' would only assist in mitigating the concerns raised relating to traffic, parking, amenity and local character from the application of the boarding house provisions from the *State Environmental Planning Policy (Affordable Rental Housing) 2009* if the accompanying planning provisions are crafted in a way to deliver a more localised and suitable development outcome. Introducing a new land use definition to distinguish student housing from boarding housing will have limited impact if the same planning issues that arise from a boarding house result from development approved as student housing. The local community is not concerned with the technical land use definition, more so the impact the development has on local streets and neighbourhoods.

Council in its submission to the Housing Diversity SEPP EIE did not support a number of the planning controls proposed to deliver the new definition of 'student housing'. This included the proposed car parking rates, minimum size of communal areas (indoor and outdoor), and room size, as these were considered to generate the same (or worse) amenity and traffic impacts as a boarding house.

Under the proposed controls for student housing, no minimum car parking spaces are required for student housing. Whilst the permissibility of student housing and the car parking controls most certainly should have an accessibility requirement to ensure they are located within close proximity to well serviced transport, the proposal to have no minimum car parking would likely cause traffic and parking issues on local streets and receive significant opposition from the community. This coupled with the existing traffic impacts generated by on-street school staff parking and school pickup and drop-off times, will place further pressure on the local street network.

Council did not support the Housing Diversity SEPP's proposal to allow student housing to rely on existing open space provided within the educational establishment. A minimum amount of open space should be provided onsite (irrespective to access to local open space) which is comparable to other housing types to ensure development promote and increase open space across the LGA.

Whilst Council did not support a number of the planning controls proposed to deliver the new definition of 'student housing' under the Housing Diversity SEPP (refer to Council's submission), any future student housing on an educational establishment (whether defined as student housing or boarding housing) should not result in the loss of any open space, sport, recreational, or community facility located within the education establishment. As discussed above in response to 'Clarifying permissible uses on State land', the open space and recreational facilities located on education establishments need to be protected to ensure its supply for the existing and growing community. Council's LSPS identifies the opportunity to promote and increase open space across the LGA to support a growing, active and healthy community.

The yield of student housing on educational establishments needs to be clarified. The Housing Diversity SEPP proposes that the FSR and HOB for development defined as 'student housing' is to be in accordance with the applicable LEP. However, educational

establishments are located commonly on SP2 Infrastructure zones which has unspecified built form controls to reflect the SP2 zoning. Therefore, the Education SEPP EIE needs to explain how yield will be calculated for student housing on an educational establishment with no specified built form controls.

In addition to a yield calculation, the preparation of design guidelines for student housing is considered crucial in delivery good planning and design outcomes for students, particularly in relation to built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

Timeframes for short-term portable classrooms (e.g. demountables) as exempt development

The Education SEPP currently allows for the installation of short-term portable classrooms as exempt development within the boundaries of an existing school if it is removed within 24 months of being installed. Concern has been raised by education providers that the 24 month timeframe is too short, and that schools require more flexibility to manage their structures to accommodate student numbers. It is proposed to increase the 24 month timeframe to 48 months.

Council queries how the quantity of short-term portable classrooms will be controlled on one educational establishment. The cumulative impact of multiple short-term portable classrooms on amenity are not assessable when permitted as exempt development. In addition, if multiple short-term portable classrooms are erected, disassembled, and re-erected at different times, the 'temporary' nature of these facilities is undermined as they form 'permanent' temporary facilities.

In addition, Clause 38(l)(i-ii) provide the only two design guidelines for the construction of a portable classroom. Clause 38(l)(i-ii) require them to be no more than one (1) storey high; and located five (5) metres from a residential property boundary and located more than one (1) metre from a property boundary of any other zone. However, there is no provision to control the building footprint and GFA of these facilities. Whilst 'temporary', the size and scale of these portable classrooms may be excessive and impact on amenity.

This planning pathway for short-term portable classrooms also ignores site constraints (such as flooding) which would ordinarily be identified and managed as part of a DA process. Council is also aware of instances where short-term portable classrooms have resulted in the loss of trees and landscaping, which again a DA assessment process would identify and adequately determine the most suitable outcome for the site. In summary, additional controls and guidelines are needed to better manage the construction of short-term portable classrooms.

Council also queries how the impact of the increase in student population (and the associated increase in student pickup and drop-off vehicle movements) are assessed when this type of classroom is permitted as exempt development. The increase in student numbers, and the associated vehicle movements, have an impact on the road network whether the additional students are accommodated in a temporary or permanent classroom.

Consulting with Transport for NSW about changes to pedestrian access points

Changes are proposed to require consultation with Transport for NSW (TfNSW) around changes to pedestrian and vehicular access points at schools. This is to allow TfNSW to assess the appropriateness of the pedestrian access point changes (such as gates into an educational establishment) and to ensure pedestrian safety. Council requests that the Education SEPP require consultation with Councils on the location of pedestrian access points (particularly on local roads) given their location affects the road network and pedestrian movements.

School development and tertiary institution development permitted without consent for two-storey buildings

The Education SEPP proposes to allow two storey facilities (e.g. library, teaching or education facility, cafeteria, etc) to be permitted by, or on behalf of, a public authority without development consent on land within the boundaries of an existing tertiary institution or school.

The EIE claims this proposed amendment is in response to feedback from stakeholders *“that it is not unreasonable to have a two storey facility within a low density residential area”*. Council during the assessment process of development applications for two storey developments in low density areas have received objections from the community due to concerns around site compatibility, amenity, privacy, noise and other implications from non-residential uses being located within residential neighbourhoods. Therefore, specific detail on the referenced ‘stakeholders’ is requested to validate this statement within the EIE.

For schools, the two storey facility is subject to the proposed ‘cap’ on new facilities (described above) which allows for an additional classroom (i.e. 30 students) or 10% of the existing student or staff numbers, whichever is the greater. The provision for car parking within this clause being only one storey also remains unchanged, which is not strategically justified. The amount of parking should reflect the additional demand generated by the development.

For tertiary institutions, the two storey facility is only permitted if there is no alteration to traffic or transport arrangements, and no contravention to an existing condition of consent. Consequently, the provision for car parking within this clause being only one storey will remain unchanged.

The EIE states that amendments to the development standards and caps related to floor space ratio and gross floor area for tertiary institutions are proposed in order to enable the second storey whilst ensuring development has a low impact. This level of detail needs to be provided as part of the EIE to ensure all the relevant information is available to assess the proposed amendment. Council is unable to comment on the likely impact of this change given the detail relating to built form and density is not provided. It is imperative that sufficient development guidelines be produced to ensure sympathetic and appropriate building design for any new developments (particularly where they are adjoining residential uses). Currently the Education SEPP requires a 5m setback for a one storey facility permitted without development consent. If the height is being increased to two storeys then the specific design controls need to also be revised.



In addition, Council queries how the impact of each type of two storey facility that is permitted on an existing educational facility (for example, library, teaching or education facility, and cafeteria) can adequately be mitigated or accounted for using generic controls. Will the development guidelines be use specific, and provide bespoke controls for each type of facility to ensure noise and amenity is managed accordingly? For example, the impact of a two-storey cafeteria with commercial exhaust fans would generate a greater impact than a two-storey library, therefore bespoke setbacks and planning controls are needed in response. Similarly, the traffic, movement and parking impacts as a consequence of each type of facility would also vary and the SEPP needs to accommodate for this to ensure impacts can be managed.

Innovation spaces/hubs within existing tertiary institutions

The EIE proposes to expand the SEPP to permit development with consent for innovation hub activities on existing tertiary institutions. These innovation hub activities would typically include commercial uses associated with the tertiary institution. Council supports planning reform to foster innovation, skill diversification, and 'hands on' work experience in schools and tertiary education. Macquarie University is collocated with a number of speciality research facilities and supports the 'cross-fertilisation' of ideas between the academic sector and the private sector.

Council supports the intention of the proposed reforms to the Education SEPP to foster and attract innovation activities within tertiary institutions. However, the commercial operations or businesses associated with the tertiary institutions need to be secondary or 'ancillary' uses to the educational establishment. This is to protect (or safeguard) the primary special infrastructure use of the site and ensure it does not get eroded by commercial pressures. Specific planning controls need to be prepared to support this proposed clause to ensure the innovation start-ups and 'grass roots' businesses (which the SEPP intends to deliver on tertiary institutions) do not get replaced in the future by more lucrative established commercial businesses that do not meet the intent of the reform.

Felicity Greenway
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Re: Council Submission on SEPP (Educational Establishments and Child Care Facilities) 2017

Dear Ms Greenway,

Council welcomes the opportunity to provide comments on the review of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP).

Council supports the majority of the proposed changes and clarifications outlined in the Explanation of Intended Effects (EIE). Council has provided detailed commentary on each item in the attached document.

In addition to the proposed changes outlined in the EIE, we have recommended additional changes that will provide improved development outcomes – these proposed changes are outlined below (and further detailed in the attached document);

- Early education and child care facilities should not be located adjacent to existing or future roads with an estimated annual average daily traffic (AADT) volume of more than 20,000 vehicles.
- Consultation with Councils in addition to Transport for NSW (TfNSW) in regards to pedestrian facilities.

Please note, the readability of the Explanation of Intended Effects could be improved with better referencing i.e. numbering system similar to how our submission has been laid out.

Should you wish to discuss the submission, please contact Murray Wilson, Principal Strategic Planner on 8711 7427 or 0439 712 561.

Your sincerely



Charles Wiafe
Acting Manager Planning and Transport Strategy

1. Proposed Changes to the Education SEPP

1.1 “Education Establishment’ definition clarified

Council comment

Council supports the clarification of this clause.

1.2 Clarification of terms in vegetation clearing clause

Council comment

It is considered that the proposed changes are minor, and clarify how the clause should be interpreted.

1.3 Correcting Cross Referencing

Council comment

Council supports the updating of references.

1.4 Clarifying permissible uses on State Land

Council comment

The Department would need to ensure that any development to be undertaken would still be subject to provisions of the relevant Local Environmental Plan or other applicable council policies.

Also, the example given in the EIE is just one scenario. The SEPP permits schools to be carried out with development consent on land in a prescribed zone. Prescribed zone covers many different land use zones.

In this case, other than applying the relevant Local Environmental Plan or other applicable council policies, some State Environmental Planning Policies may also apply. It is important to ensure that the provisions of any other SEPP continue to apply.

More importantly, in the event of any inconsistency, which Policies would take precedence, is it the Education SEPP or the local provisions and other state provisions.

1.5 Clarifying circumstances where schools can be expanded

Council comment

Council supports the clarification of this clause.

This is an existing provision that is to be amended to be interpreted the way it is intended to read. No material change to the existing clause is proposed.

Notwithstanding this, it should be clear as to what policies should apply in instances when schools are expanded to adjacent land.

Are expansions subject to provisions of the relevant Local Environmental Plan or other applicable council policies that apply to the adjacent land?

1.6 Restricting child care centres within close proximity of each other in low density residential zones – due to amenity issues i.e. traffic and noise.

Council comment

This proposal to introduce a separation distance is supported.

However, a clear control is needed to clarify how to interpret the separation distance of 200m. Will it be a 200m radius? Or on the same street? What if the proposed child care centre is 160m away and has justified minimal impact?

1.7 Bush fire prone land

Council comment

Council supports the clarification of this clause.

1.8 Enabling student housing on sites with existing educational establishments

Council comment

This is a change that relates to the introduction of student housing under the Housing Diversity SEPP. It will be removing provisions in the Education SEPP that currently prevent student housing from being proposed under the Education SEPP to facilitate student housing on school, university and TAFE sites, subject to development consent. The Housing Diversity SEPP will facilitate these forms of accommodation outside of educational establishments.

The NSW Publication indicates that design guidelines for student housing could also be developed to accompany the new Housing Diversity SEPP. The status of these guidelines and whether they are still proposed remains unclear. Notwithstanding this, the Education SEPP would need to respond to this change itself by adopting provisions within the SEPP that deal with this kind of development or its own guidelines.

Also, one scenario that the Department should clarify is the relationship between enabling student housing on sites with existing educational establishments and the ability for educational establishments to expand to adjacent land. For instance, how do the proposed instruments deal with a scenario wherein a school is seeking to expand for the purpose of student housing rather than the purpose of educational establishment.

In this case, concern is raised in relation to how student housing development is to be characterised. Other than removing Clauses 34, 44 and 51 and amending Clauses 35, 45 and 52 to allow student housing. How is student housing defined in the context of the Education SEPP and what is its relationship to educational establishments? How does it relate to the Housing Diversity SEPP?

Furthermore, given that educational establishments are permitted in most zones, would relevant policies and environmental planning instruments applicable for development within each zone need to be considered. For instance, the provisions of SEPP 65 are pertinent to development for residential purposes typically three storeys or more. In this case, is student housing, being a form of accommodation more than education, to be assessed against SEPP 65?

Another thing that the Department should clarify is the following comment in the Publication:

*“Supporting this new proposal, the Education SEPP proposes to allow student housing as a development permitted with consent, by any person who obtains landowner’s consent, within the boundaries of an existing educational establishment. **No other forms of housing will be permissible on educational establishments.**”*

This paragraph, in the context of the below scenario given in clarifying permissible uses on State land, is confusing:

*For example, if a government school site is zoned SP1 Special Activities and the land adjoining it is zoned R1 General Residential, **it is intended to make residential development a use permissible with consent within the grounds of the existing school if a site compatibility certificate has been issued.** The residential development would still be subject to provisions of the relevant Local Environmental Plan or other applicable council policies.*

This provision would enable other forms of housing on educational establishments which is contrary to what is being discussed in relation to student housing.

1.9 Planning pathways for development affected by a 10% student cap

Council comment

Council supports the proposed amendment of this clause.

1.10 School development permitted without consent for two-storey buildings

Council comment

Council supports the proposed amendment of this clause.

Clause 36(1)(a) specifies that the building would need to be more than 5 metres from any property boundary with land in a residential zone. If this was to remain then no objection is raised to amending the clause to permit buildings up to two storeys, given that two storeys is typical height for development within the low-density residential zone.

It is also recommended that a Construction Traffic Management Plan is to prepare by a qualified transport practitioner and submitted to the PCA as part of the construction certificate approval for any building development permitted without consent, such as two-storey building, within an existing school.

Where there are existing traffic and parking concerns, the application is to be determined in consultation with Council.

1.11 Clarification regarding application of conditions of consent

Council comment

Council supports the clarification of this clause.

1.12 Directional Signage and information boards

Council comment

Council supports the proposed amendment of this clause.

1.13 Exempt development standards for school based child care.

Council comment

The change seeks to ensure that hours of operation are applied consistently regardless of whether school-based childcare is permitted as exempt or complying development. The change seems to be in relation to the following clause of the Education SEPP:

“38(1)(i) the use of existing facilities or buildings for the purposes of school-based childcare, or for the physical, social, cultural or intellectual development or welfare of the community (whether or not it is a commercial use of the establishment),”

This is a sensible amendment to the Education SEPP. However, do the hours of operation also apply to the use of existing facilities ‘for the physical, social, cultural or intellectual development or welfare of the community’?

1.14 Timeframes short term portable classrooms (e.g. demountables) as exempt development

Council comment

Council supports the proposed amendment of this clause.

It is noted that timeframes for short-term portable classrooms (e.g. demountables) as exempt development will be extended from 24 months to 48 months. As such, the existing school operational traffic management plan is to be updated to provide on-site traffic and parking management measures for additional portable classrooms. A copy of the latest school operational traffic management plan is also to be submitted to Council to ensure appropriate management of local traffic issues.

1.15 Teaching facilities to include classrooms

Council comment

Council supports the clarification of this clause.

1.16 Canteens as complying development

Council comment

Council supports the clarification of this clause.

1.17 Allowing shops selling school related supplies

Council comment

It is considered that there should be a cap on the size of a kiosk or bookshop like there is a cap on a kiosk in the local planning instrument.

1.18 External property boundaries

Council comment

Council supports the clarification of this external property boundary.

1.19 Tertiary institution development permitted without consent for two-storey buildings

Council comment

Council supports the clarification of this clause.

1.20 Innovation spaces/hubs while existing tertiary institutions

Council comment

Council supports the expansion of the SEPP to permit innovation hubs within existing tertiary institutions.

1.21 Landscaping associated with new development

Council comment

Council supports the clarification of this clause.

1.22 Garbage and Waste storage

Council comment

Council supports the clarification of this clause.

1.23 Retaining walls and earthworks

Council comment

Council supports the clarification of this clause.

1.24 Measuring noise impacts for complying development

Council comment

Council supports the clarification of this clause.

1.25 Complying development over registered easements

Council comment

Council supports the clarification of this clause.

1.26 Consulting with Transport for NSW about changes to pedestrian access points

Council comment

Council supports the clarification of this clause.

It is also recommended that an additional requirement is included in this clause, that requires the consent authority (if not Council) to consult with local councils to ensure adequate pedestrian access arrangements including crossing facilities can be agreed to, which accommodates future growth.

1.27 Allowing geographical investigations and other testing, surveying and sampling as exempt development

Council comment

Council supports the clarification of this clause.

2. Other regulatory changes being considered

2.1 State Environmental Planning Policy (State and Regional Development) 2011

Council comment

The change proposed appears to relate to the thresholds in Schedule 1 of the State and Regional Development SEPP. However, it isn't clear as to whether any changes are proposed to Schedule 7 of the State and Regional Development SEPP. In its current form, Clause 5 of Schedule 7 indicates that any educational establishment over \$5 million in value is regionally significant development. Council raises no objection to the new thresholds for SSD for educational establishments if schedule 7 thresholds for regionally significant development does not change.

2.2 Child Care Planning Guideline - Fire safety provisions for multi-storey child care centres and centres in multi storey buildings

Council comment

Council supports a revision of the Child Care Planning Guideline that will improve fire safety requirements and ultimately improve the safety for occupants of the building.

2.3 Child Care Planning Guideline - Requirements centre-based child care to consider local character

Council comment

Council supports the inclusion for centre based child care to consider local character.

2.4 Child Care Planning Guideline – Site suitability guidance for centre-based child care facilities

Council comment

Council supports the proposal to provide greater clarification for site suitability.

In regards to the site suitability guidance within the Child Care Planning Guideline, it is recommended that an additional restriction is added to improve the health and safety of children from an air quality perspective.

Early education and care facilities should not be located adjacent to roads with an annual average daily traffic (AADT) volume of more than 20,000 vehicles (including a road with future forecasts in excess of 20,000 vehicles). This could be simplified by not permitting early education and care facilities on classified and main arterial roads.

This will ensure children attending future facilities have access to cleaner air, minimising their exposure to toxins produced by heavy traffic.

2.5 Child Care Planning Guideline – Site suitability guidance amenity impacts in low density residential areas

Council comment

Council supports the proposal to provide greater considerations for site suitability.

2.6 Child Care Planning Guideline - Consistent terminology regarding railway stations

Council comment

Council supports using consistent terminology.

2.7 Child Care Planning Guideline - Solar access minimum standards

Council comment

Council supports the proposal to provide greater clarification for solar access, however the Explanation of Intended Effects could be clearer on what 'winter' means.

The change proposed seeks to "have a minimum of 2 hours of solar access between 8am and 4pm in winter (March 21 to September 21), to ensure a minimum 2.1m² of outdoor space per child". Winter months are June to August. Also, it is suggested that the minimum standard is for 2 hours of solar access between 8am and 4pm during the winter solstice (21 June) which is the

day in winter months that has the least daylight. This would ensure that any other day in the winter months also gets 2 hours of solar access.

2.8 Child Care Planning Guideline - Consistent fence heights

Council comment

Council supports the clarification of this clause in the guideline.

2.9 Child Care Planning Guideline - Clarifications and correction within the Child Care Planning Guideline

Council comment

Council supports the clarification and corrections within the guideline.

2.10 Guide to the Education SEPP - Car parking inconsistency

Council comment

Council supports the clarification of this clause

2.11 Guide to the Education SEPP - Measurement of rear and side setbacks inconsistencies

Council comment

Council supports the clarification of this clause.

KIDSAFE NSW Submission on proposed amendments to the Education SEPP

Child Care Planning Guideline - Fire safety provisions for multi-storey child care centres and centres in multi storey buildings

Kidsafe NSW supports the recommendation to update the Child Care Planning Guideline, Section 4.8 Emergency and evacuation procedures to reference the new national standards for emergency and evacuation procedures made by the National Construction Code.

Child Care Planning Guideline - Solar access minimum standards

Kidsafe NSW has been involved in research collaborations with Dr Sebastian Pfautsch from Western Sydney University who is conducting extensive research around sun exposure and hot surfaces, with particular focus on Education and Care facilities and Schools. Kidsafe NSW suggests consideration of the following heat studies and research outcomes reflected in the document prior to assigning minimum standards for solar provisions.

- https://www.westernsydney.edu.au/_data/assets/pdf_file/0005/1480325/Cool_schools.pdf
- Further contact regarding minimum solar access -
Dr Sebastian Pfautsch | Senior Lecturer
Urban Studies School of Social Sciences
Theme Fellow (Environment and Sustainability)
Office of the DVC (Research, Enterprise & International)
P: (02) 9685 9081 | M: 0457 444 774
E: S.Pfautsch@westernsydney.edu.au

Child Care Planning Guideline – Consistent fence heights

Kidsafe NSW regularly receives calls regarding height requirements for boundary fences and balustrades on balconies (particularly for education and care services located in multi-storey buildings).

Recently (2020) Kidsafe Australia has put forward a proposal to the National Construction Code (NCC) to provide clarification regarding definitions and requirements to minimise the risk of falls for Class 9b - Early Childhood Centres in multi-storey buildings to comply with AS 1926.1.

Kidsafe NSW recommends the following changes to the Guideline:

- Refer to National Construction Code regarding fencing of G1.3 'Outdoor Play Spaces'.
- Include a definition for 'Outdoor Play Spaces' in line with NCC.
- Include the balcony or edge of the building as the same as the external property boundary. This would require the external property boundary including balustrades/balconies/barrier in outdoor play spaces to be 1800mm high as per AS 1926.1.

Consulting with Transport for NSW about changes to pedestrian access points

Kidsafe NSW supports the recommendation that Transport for NSW be consulted on any proposed changes to pedestrian access points at schools to ensure pedestrian safety.

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam

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

Thank you for the opportunity to make a submission on the proposed amendments to this SEPP. Council wishes to make comments on the following aspects:

Restricting child care centres within close proximity of each other in low density residential zones

Council supports the proposed amendment of a 200 metre separation distance between child care centres in the R2 Low Density Residential zones. As noted in the review this will help mitigate noise, traffic, and also parking impacts, all of which have been exacerbated by the trend towards an increased size of these facilities.

It is also recommended that the separation distance be defined and measured in the same way as for affordable housing in relation to public transport accessibility i.e. from a pedestrian perspective.

School and tertiary institution development permitted without consent for two-storey buildings

Council does not support this proposed amendment. Allowing two storey development without consent can result in amenity issues such as overlooking, overshadowing and have an overbearing impact; especially on neighbouring residential properties. This is even with retention of a 5 metre setback for residential zones.

Innovation spaces/hubs within existing tertiary institutions

Council supports this proposed amendment. Particularly for strategic centres, innovation spaces/hubs would allow for an important addition that can assist in facilitating close ties between local industry and tertiary institutions and help advance research on education sites. These are important for strategic centres categorised as health and education precincts, as it can help them facilitate collaboration and innovation. It can also help bring forward delivery of commercial floor space and knowledge sector jobs.

Threshold triggers for State Significant development

Council does not support this proposed amendment. The reduction in capital investment value from \$30 million to \$20 million will see increased DAs being assessed and determined by Council, placing a greater strain on Council resources.

Child Care Planning Guideline - Solar access minimum standards

Council does not support this amendment. It is considered that the timeline of between March 21 to September 21 would be onerous to demonstrate. The solar access requirement should be based on 21 June (winter solstice), similar to the solar access requirements in other legislation. It is also noted that the new guideline doesn't include mention of solar access to any internal area, whereas the previous guideline inferred solar access was to be received by indoor area space as well. This should be revisited.

Where possible, indoor play areas should also receive some level of solar access. Through this design element/requirement, it will also ensure such indoor play areas have the opportunity to receive natural ventilation as well, which is in line other child care centre guidelines.

Guide to the Education SEPP – Solar Access

The guide advises that proposed school buildings **must not reduce** the solar access to habitable rooms and private open space of adjoining residential properties to less than three hours between 9 am and 3 pm on the winter solstice.

This implies any increase in overshadowing to private open space and/or to a living room window will not be compliant. This may be an issue if Council is PCA or is taking a regulatory role.

Guide to the Education SEPP - Caps on Development Consents

The Guide states that:

Development consents issued for school development, either as local, regional or State significant development are often subject to conditions that limit the intensification of the school development through caps on both student and staff numbers (cap conditions). These cap conditions are an important tool to manage the traffic and parking impacts arising from school development (both new schools and major expansions), but can be a major constraint on the growth of the school and the provision of essential school infrastructure. Under the SEPP, development undertaken as complying development and development to be carried out without consent cannot contravene any existing conditions on development consents relating to student or staff numbers that apply to the land within the boundaries of an existing school.

However in Planning circular PS 17-004 - Development assessment of schools it outlines that the consent authority should recognise the need for flexibility when

limiting staff and student numbers as enrolments at both public and non-government schools can fluctuate considerably between years and may be hard to predict. If cap conditions are required, they should only be applied in circumstances justified by a comprehensive and evidence-based assessment of relevant planning issues such as traffic and parking.

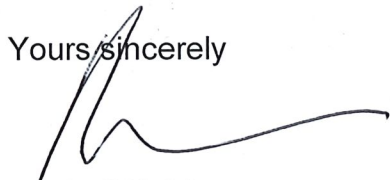
The two paragraphs above are almost contradictory in that one highlights the reliance on cap conditions to control the level of development at a school, while the circular mentioned in the second paragraph limits Council's ability to apply cap conditions. There are many schools (public and private) without cap conditions. Overdevelopment that may occur as a result of these new controls on existing schools should be controlled by introducing caps to schools with no cap conditions.

Guide to the Education SEPP - State Significant Development

The proposed changes provide the Department of Planning with authority to approve variations from local planning instruments. This would appear to be similar a Clause 4.6 variation assessment in an LEP. Council does not object to this subject to local feedback being considered in the assessment.

I trust these comments will be useful in your review. Please contact Council's Acting Coordinator Strategic Planning Allan Shooter on 9707 5472 if you require any further information.

Yours sincerely



Mitchell Noble
Manager Spatial Planning

22 December 2020

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Wednesday, 16 December 2020 4:17:43 PM
Attachments: [cumberland-city-council-submission--review-of-the-education-sepp-2017.pdf](#)

Submitted on Wed, 16/12/2020 - 16:15

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Samanth

Last name

Attard

I would like my submission to remain confidential

No

Info

Email

samantha.attard@cumberland.nsw.gov.au

Suburb/Town & Postcode

Auburn 2144

Submission file

[cumberland-city-council-submission--review-of-the-education-sepp-2017.pdf](#)

Submission

Please find submission attached, also posted.

I agree to the above statement

Yes



Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

Attention: Director Infrastructure Policy and Assessment Practice

Dear Sir / Madam

Submission: Education State Environmental Planning Policy Amendment

Thank-you for the opportunity to comment on proposed amendments to NSW State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP). Lake Macquarie City Council welcomes the aims of improving operation, efficiency and usability of this Policy. Council support efforts to make it easier for education and child-care providers to build high-quality facilities to meet demand. We support the efforts to improve assessment time frames, reduce unnecessary red-tape and eliminate double-handling, to fast-track such projects. There are however some concerns and suggestions from Council staff as outlined below.

1. Centre Based Child Care Centres

Council staff support the limit of impact of centre-based child care centres in low density residential areas by requiring a minimum separation distance. A limit of distance between proposed centres is supported in principle. In the absence of information on what that distance should be the proposed 200 meters is considered reasonable to minimise amenity issues to adjoining neighbours.

Further clarification is suggested around the explanation for land (not lot) effected by bushfire risk within the Child Care Guideline, this should not be left open to multiple interpretations.

2. Educational Establishments and Housing Permissibility

Council supports allowing student housing on land within existing educational establishments in principle, particularly in urban settings. Also supported is the concept of a cap on student numbers and allowing two-storey buildings in these establishments. This requires embedded parameters.

Firstly, to ensure it is, and remains, housing primarily for students. Secondly, such development should be subject to transparent assessment. Establishments, particularly in more regional areas, often include significant land zoned for other purposes such as rural or environmental, and if cleared for residential purposes could have significant impacts on those purposes, any adjoining land uses and on infrastructure required to service the unanticipated use. The exclusion of these zones should be considered or clear parameters put in place.

3. Expanding the Operational Limits of the Educational SEPP

Council supports the proposed increase of the CIV threshold. The temporary classroom timeframe extension is also supported. As is the proposal to expand the types of activities for development as complying or exempt development, such as Geotech and other testing, surveying and sampling with

the parameters proposed of ensuring such development doesn't involve any greater disturbance of the ground or vegetation than necessary and doesn't result in increased stormwater etc. However, it is suggested that what 'necessary' means in this context could be clearer.

The proposed housekeeping changes are supported – such as clarifying whether a new campus of an existing school should be assessed as a new school; clarifying times for before and after school care; and distinguishing between external boundaries and lot boundaries etc to clarify its application.

Clarification regarding bushfire risk is supported, although further clarity is recommended to ensure it is not left open to multiple interpretations. This should apply to the *land* affected not *the* lot.

4. Educational Establishments Expansion onto Adjoining Land

Council supports, in principle, the concept of allowing development permitted (with consent) under an environmental planning instrument on land adjacent to an existing educational establishment, with a valid site compatibility certificate, where the land containing the educational establishment is prescribed State land. However, Council suggests adding some important exceptions that may be particularly relevant at the urban fringe, and in regional or country areas.

Exceptions should put in place for any such development that would allow expansion of educational facilities onto land that is zoned for environmental conservation, management, or living. These zones in the Lake Macquarie Local Environmental Plan 2014 protect and conserve environmental values. Council's concern is in allowing education facilities (and any associated accommodation) to expand into these zones (including with a site compatibility certificate). This has the potential of compromising the intent of the zone. This relates to the potential to:

- Undermine the objectives of these zones
- Contribute negatively to an erosion of the natural landscape of our City
- Reduce the opportunity for community input and comment in the process, and
- Reduces/ undermine the role Council plays in incorporating local knowledge, consultation etc in the process in the absence of the usual rezoning process required.

For the above reasons Council request the exclusion of land zoned environmental (E2, E3 and E4) from this part of the subject amendments.

For further information, please do not hesitate to contact Shane Cahill on 4921 0767 or via email at scahill@lakemac.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink that reads "Shane Cahill".

Shane Cahill
Senior Strategic Planner
Integrated Planning



Reference: T20/26020

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124
Email: education.sepp@planning.nsw.gov.au

Submission to the Review of the Education SEPP 2017

Dear Sir/Madam

Thank you for the opportunity to provide feedback on the Review of the Education State Environmental Planning Policy (SEPP) 2017.

The NSW Small Business Commission (Commission) is focussed on ensuring the needs of small business are front-of-mind for Government decisions, planning and policy development and that support and assistance is tailored to ensure maximum benefit(s). The Commission advocates for small businesses and provides resources, strategic advice and low cost mediation services and helps to resolve issues and assist them.

The Commission is a strong advocate for better planning controls, conditions and supporting information to reduce red tape and help small businesses start, gain approvals and operate compliantly.

The Commission supports many of the proposed amendments to the SEPP particularly those that provide additional clarity, improve usability, rectify existing inconsistencies between the Guideline, policy and legislation, and streamline processes for childcare operators in establishing, altering, or operating childcare centres.

We provide the following comments in regard to specific amendments:

Proposed Amendments to the Education SEPP and/or Child Care Planning Guideline	Commission Comments
<i>Restricting childcare centres within close proximity of each other in low density residential zones</i>	<p>Amendment is not supported in its current form.</p> <ul style="list-style-type: none">• Childcare centres are an essential service for our communities and local economies, including to facilitate small business owners and employees being able to work.• Care needs to be taken to ensure that any restrictions of this nature are not anti-competitive, and that there are no unintended policy consequences in how these provisions will operate.• The proposed amendment as it stands could reduce opportunities for small businesses to apply for and establish childcare centres or force businesses into less optimal locations.• It is noted that some councils have been seeking to prevent additional childcare centres opening in their local communities. Reasons can be political due to community agitation. Existing centres also can be opposed to competitors opening close by.

	<ul style="list-style-type: none"> In some communities there are limited places suitable for centres. For example, near transport hubs, and a 200m exclusion zone could mean there are no other alternate sites available, despite demand for more childcare places in the location.
<i>Exempt development standards for school-based child-care</i>	<p>Amendment is supported, subject to the following consideration:</p> <ul style="list-style-type: none"> Ensuring consistency in hours of operation requirements between exempt and complying development is supported. Changes in business operating hours, and the increase in flexible work arrangements require school based child care to be positioned to accommodate future changes in work arrangements as well as the demand for child care on weekends and for extended hours during the week.
<i>Canteens as complying development</i>	<p>Amendment is supported.</p> <ul style="list-style-type: none"> The amendment to include ‘canteens’ as well as cafeterias as complying development is supported.
<i>Innovation spaces/hubs within existing tertiary institutions</i>	<p>Amendment is supported.</p>
<p>Child Care Planning Guideline</p> <ul style="list-style-type: none"> <i>Requirements for centre-based child care to consider local character</i> <i>Site suitability guidance for centre-based child care facilities</i> <i>Site suitability guidance amenity impacts in low density residential area</i> 	<p>These amendments have qualified support, subject to the proposed changes resulting in a reduction in red tape, delays and costs for small business, not increasing them:</p> <ul style="list-style-type: none"> Appropriate consideration needs to be taken to ensure that ‘local character’ and ‘site suitability amenity guidance’ requirements are not used as a barrier to entry or to impose additional unnecessary red tape, hurdles, delays or costs on small business operators. In addition, any local character requirements implemented must be reasonable and appropriate, subject to community consultation, have an option for independent review, and should be already published before an application is received.

Other feedback relevant to child care planning matters and small business:

In addition to amending the SEPP to provide additional clarity and address inconsistencies, there are a number of other issues in relation to child care centre planning and approvals that would benefit from review, these include:

1. Streamlining approval processes for new childcare centres between federal and state agencies, and local government.

Applications and approval for new childcare centres involve three tiers of Government and can be long, onerous and costly. A more seamless process that provides greater certainty would greatly assist as industry sources state that disputes and delays in securing approvals from the three levels of government are costly and highly disruptive.

2. Enable all State, Federal and Local application, assessment and approval processes to be undertaken concurrently to ensure an efficient, fast and smooth assessment and approval process.
3. Fast tracking applications that meet all required planning, regulatory and safety standards for building, opening or expanding.



4. Provide operators with an estimated approval date at the start of the application process, and allowing the centres to commence advertising, hiring staff and registering children in preparation for opening, rather than requiring all necessary approvals to be in place first.
5. Leverage available technology on the ePlanning Platform to create an easy, efficient and transparent planning application and approval process for new and existing childcare centre operators.
6. Ensuring departmental staff that are assessing technical aspects of child care centre planning applications have relevant skills, qualifications and experience to undertake the technical work required, so that unnecessary delays and costs are not incurred.
7. Raising any queries in a timely manner within the existing application approval time frame.
The Commission has received feedback from operators that in some cases, relatively minor issues are being raised late in the application process, and the 'approval time clock' is being reset to zero, i.e. the number of days the Department of Education has to consider an application. This has negative impacts on the financial and operational costs of a small business.

The time clock should be stopped to provide a business with sufficient time to respond to any material issues raised, however the clock should not be reset to zero each time a question is asked, nor multiple times in respect to the same application.

8. More guidance, educational resources and information on relevant decisions and regulatory outcomes to ensure consistent interpretation of the SEPP and lift capability. While there is now one SEPP, the child care sector has indicated that there are inconsistent interpretations between authorities and agencies and these cause additional delays and costs for small business operators. In one example, a child care centre was required to make multiple physical changes to the built environment of their toilets. Local council staff, Department of Planning, Industry and Environment and the Department of Education staff gave conflicting advice regarding the required amount of visibility into the area by both glass windows and walls that resulted in a number of costly building alterations.

In addition, small business operators have provided feedback that there are often complications where there are a multiple different interpretations of some unclear legislative and regulatory requirements, and in some circumstances, difficulties in obtaining clarity.

Measures to provide further clarity and a better customer experience could include:

- i. Web-based Frequently Asked Questions (FAQs) for common enquiries regarding legislative, policy, regulatory or safety requirements, and a process to add new information in response to new queries.
- ii. Greater use of deidentified or hypothetical case studies that provide guidance on addressing legislative, policy, regulatory or safety standards issues.
- iii. Additional fact sheets, guidelines and web-based resources on key topic areas to provide consistent information across NSW.



**Small
Business
Commissioner**

Small Business Commissioner
Level 1, 10 Valentine Avenue,
Parramatta NSW 2150
PO W275 Parramatta Westfield NSW 2150
T 1300 795 534 www.smallbusiness.nsw.gov.au

We appreciate the opportunity extended to provide comments on the SEPP. Should further information be required from the Commission please contact Mr Tyler Wakefield, Senior Advisor on 0426 523 493 or email tyler.wakefield@smallbusiness.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink that reads 'Chris Lamont'.

Chris Lamont
Commissioner
NSW Small Business Commission
22 December 2020

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 11:10:04 AM
Attachments: [submission-to-department-for-amendments-to-education-sepp---hornsby-shire-council.pdf](#)

Submitted on Thu, 17/12/2020 - 11:06

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Fintan

Last name

Langan

I would like my submission to remain confidential

No

Info

Email

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Suburb/Town & Postcode

Hornsby 2077

Submission file

[submission-to-department-for-amendments-to-education-sepp---hornsby-shire-council.pdf](#)

Submission

Please see attached submission from Hornsby Shire Council

I agree to the above statement

Yes

Ms Felicity Greenway
Executive Director, State Policies and Strategic Advice
NSW Department of Planning, Industry and Environment

Dear Ms Greenway

Thank you for the opportunity to provide feedback to the review of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Education SEPP).

The Quality Assurance and Regulatory Services Division of the Department of Education, the Regulatory Authority for early childhood education and care services in NSW, has carefully considered the proposed amendments.

The proposed amendments are supported as they will provide clarity, avoid duplication and ensure consistency with other planning legislation.

The Department has the following feedback on the proposals:

Development on bushfire prone land:

The Department notes that the review is proposing to amend Clause 30(3) relating to Home-based child care—complying development and Schedule 3, clause 14(1) relating to bush fire prone land to ensure consistency with Clause 19A of the SEPP.

Comment: While the amendment is supported, it would be appreciated if there was clarity on whether changes are retrospective and around additional complexities such as extensions or rebuilding on land. Retrospective application would pose a significant administrative burden on the sector and it is recommended that this proposal apply only to future developments, including renovations and rebuilds that require council approval. It would also be appreciated if the changes could be reflected in the Guide.

Restricting child care centres within close proximity of each other in low density residential zones

A suggested minimum separation distance of 200m between centre based child care centres is being considered. This separation would address the key concerns of noise and traffic without significantly impacting the provision of centre based child care facilities in residential areas, close to where families live.

Comment: Clarification is sought as to whether the 200m relates to a 200m radius, how parking will be considered, and noting that there are locations where multiple services operate from the same site.

School development permitted without consent for two-storey buildings

It is proposed to amend Clause 36 to permit a (overall maximum) two storey school facility (e.g. library, classroom, cafeteria, etc) to be permitted by or on behalf of a public authority without development consent on land within the boundaries of an existing school. Clause 36 is still subject to the cap described in Clause 36(2)(b), which is also

described above. The provision for car parking within this clause being only one storey also remains unchanged.

Comment: The Department recommends that early childhood services are excluded ECE from this proposed amendment given the additional considerations when provisioning ECE services in multilevel buildings.

Timeframes for short-term portable classrooms (e.g. demountables) as exempt development

It is proposed to amend Subclause 38(1)(l)(iii) by increasing the timeframe for short-term portable classrooms from 24 months to 48 months. The additional two years will provide schools with more security with their short-term portable classrooms.

Comment: to the Department supports the increase in timeframe from 24-48 months for early childhood services on school sites that are located in a demountable, as a number of these are being progressed through the Department of Education's infrastructure division.

Child Care Planning Guideline – Site suitability guidance amenity impacts in low density residential areas

The proposal states that impacts that may be considered include:

- overlooking into adjoining properties
- noise emissions
- visual amenity impacts (e.g. additional building bulk and overshadowing)
- complications to emergency evacuation.

Comment: Developments with outdoor play space above ground floor in R2 zones should be referred for concurrence.

Child Care Planning Guideline - Fire safety provisions for multi-storey child care centres and centres in multi storey buildings

Changes to national standards for emergency and evacuation procedures are being made. An amendment made to the National Construction Code came into effect on 1 July 2020 to enhance fire safety provisions in early childhood facilities above the ground floor in multi-storey buildings.

Comment: The proposed changes mention changes to the guidelines to include that child care facilities must also comply with the amended requirements of the National Construction Code (1 July amendment). The Department would like to clarify what performance solutions are deemed adequate in the context of early childhood education and care services?

We understand that the Australian Building Codes Board is in the process of developing guidance on this issue, however it would be preferable if the Child Care Planning Guidelines could provide more guidance to support stakeholders in not only understanding what the requirements are, but also in how to meet them.

Consideration must also be given regarding the ages and mobility of children on floors above ground level.

Child Care Planning Guideline - Consistent fence heights

It is proposed to make minor edits to the Guideline for clarity purposes to resolve this inconsistency and add additional explanatory text for internal fences: "if the outdoor

space is being fenced internally, then the fence must be at least 1.2m high". This change will utilise the National Construction Code as a safety reference (Australian Standards 1926.1 – 2012). That Code requires 1.2m internal fence for outdoor play spaces.

Comment: This does not provide clarity to ECE services on school sites. It could be clearer by stating the requirements for fencing heights for the boundary of the service premises and the requirements for fencing heights of internal fences

Please note that the Quality Assurance and Regulatory Services Directorate of the Department of Education, being the Regulatory Authority for early childhood education and care services in NSW, has only commented on the proposed changes that affect early childhood services. Our colleagues within the Department are considering changes that may impact schools and may provide feedback to this end.

I would like to add that early childhood services operated by local government have raised concerns with the Department regarding proposed minimum separation distance of 200m between centre based child care centres and the introduction of hours of operation for the use of school-based child care in the exempt development pathway. There is a view that there should be greater emphasis on demonstrating demand for each service, rather than focusing on the distance between services. The Department notes that an oversupply of places may have the potential to impact on the quality of education and care provided to children.

Thank you again for the opportunity to provide feedback to the Review. We would welcome a conversation to explore those areas for clarification further. Please contact Ms Abigail Weldon-Chan, Director, Regulatory Strategy, Policy and Practice, by telephone on 02 8633 1840 or email at abigail.weldonchan@det.nsw.edu.au to discuss further.

Yours sincerely



Sharon Gudu

**Executive Director
Quality Assurance and Regulatory Services
Early Childhood Education**

17 December 2020



22 December 2020

TfNSW Reference: SYD16/00581/14
DPIE Reference: Education SEPP 2017

Felicity Greenway
Executive Director, State Policies and Strategic Advice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Ms Greenway,

**PROPOSED AMENDMENTS TO THE STATE ENVIRONMENTAL PLANNING POLICY
EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES 2017**

Transport for NSW (TfNSW) appreciates the opportunity to provide comment on the proposed amendments to the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (ESEPP) as referred to us in DPIE's correspondence dated 20 November 2020.

TfNSW has previously provided comments to DPIE in relation to the ESEPP and the respective requirement for TfNSW certification for complying development certificates (CDCs) under clause 4(1)(j1) of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000* (EPA Regulation) in correspondence dated 9 and 20 December 2019 and 25 March 2020.

Detailed comments on the proposed amendments to the ESEPP are provided at **Attachment A** for DPIE's consideration. The key areas discussed fall into the following categories: certification times; legislative issues; the increased level of growth proposed to be permitted without Development Consent; short-term portable classrooms; Universities and TAFEs; and Pedestrian Safety Guidelines.

TfNSW requests that our previous recommended rewording of clause 4(1)(j1) of Schedule 1 of the EPA Regulation is considered and implemented in the amendments to the ESEPP and EPA Regulation, in addition to the comments provided in Attachment A.

Thank you for the opportunity to provide advice on the ESEPP amendment. Should you have any questions or further enquiries in relation to this matter, Amanda Broderick would be pleased to take your call on phone 8849 2391 or email: development.sydney@transport.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Cheramie Marsden'.

Cheramie Marsden
Senior Manager Strategic Land Use
Land Use, Networks & Development, Greater Sydney Division

Attachment A: Detailed Comments on proposed amendments to the ESEPP 2017

TfNSW Certification under EPA Regulation Schedule 1 Forms (Part 2, s 4.1.j1)

Certification Times:

TfNSW advises that the requirement for TfNSW certification of road network impacts for school CDCs under the EPA Regulation takes significant time to process. This creates delays particularly for the first applications received by TfNSW. The initial cases did not resolve with TfNSW providing certification to support the CDCs, as the certification requests did not have adequate supporting information. TfNSW issued requests for additional information and the additional information was not received. The information (commonly missing) that is required to proceed with the issue of a certificate is:

- I. written confirmation from councils that the traffic impacts on the local road network as a result of proposed developments are acceptable; and
- II. whether the relevant council has any specific conditions/requirements to be met in order for the traffic impacts to be acceptable.

We require this information as TfNSW does not have responsibilities under the *Roads Act 1993* for the management of local roads. Councils, as the roads authority, also need to issue any relevant s138 consent to any works required (on any road) under the *Roads Act 1993*, as well as issue land owner's consent to any works within the road reserve (the road reserve of any road, with the exception of Freeway and Crown Roads, is vested in the local council).

TfNSW originally advised against adopting the certification requirement due to issues regarding legislative conflict. To date TfNSW has not been able to issue the relevant certificates for these initial sites to the developers as the advice from councils are still pending. In this aspect the ESEPP complying development provision has not led to faster approval times.

Legislative issues:

The legality of TfNSW to comment on local roads is another key concern of TfNSW. The provision requires TfNSW to provide certification in relation to both the state road and the local road network. This is outlined specifically in clause 4(1)(j1) of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*. TfNSW is to certify that: "any impacts on the surrounding road network as a result of the development are acceptable or will be acceptable if specified requirements are met". As unclassified roads are not generally within the ambit of TfNSW functions under the *Roads Act 1993*, TfNSW is required to obtain written confirmation from the relevant local council that the impacts are acceptable, prior to issuing a certificate.

This is because local councils are usually the roads authority for all roads and retain responsibility for the management of all unclassified roads under funding arrangements with TfNSW. Unless consultation with the relevant council has occurred, TfNSW cannot demonstrate that it has properly discharged its duty to consider the impacts of the proposed development on the local road network.

It would be more effective for local councils to comment directly to proponents regarding the local road network (except in the instance of *Roads Act* approvals that require TfNSW concurrence), and for TfNSW to provide our comments or concurrence in relation to the state road network (where necessary). This would help to reduce 'red-tape' and confusion.

Growth permitted without Development Consent:

Schools are currently (under ESEPP, s36) allowed to develop one storey facilities without development consent (i.e. via Part 5 REF planning pathway) subject to the development not exceeding 10% of the existing student or staff numbers “(compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development)”. So currently there is the potential for a 10% increase per annum in school populations without the need for a DA.

The proposed changes to the ESEPP will amend this provision to ‘an additional classroom (30 students) or 10% of the existing student or staff numbers, whichever is the greater.’ We understand this is in recognition that 10% can have negligible benefit in some cases for smaller school populations (e.g. 10 students for a school with 100 population). However TfNSW has concerns with this, as an increase of 10% per 12 months without DA consent already presents significant risk of traffic increases not being adequately assessed and mitigated, particularly for large schools. For example, 30 students may result in 15-27 additional peak hourly vehicle trips in regional areas (assuming 50-90% travel by car) every 12 months, leading to potentially significant cumulative increases in traffic and resultant road safety and efficiency impacts if intersection treatments are not adequate.

For this reason, TfNSW often requests DA conditions to enforce maximum caps on the capacity of schools to prevent a creep in student numbers and to prevent the resultant traffic and road safety impacts going unchecked. ESEPP s3 provides that “*Nothing in this clause authorises the carrying out of development in contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to any part of the school, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.*”

If this change proceeds, we will lose the ability to adequately condition developments in terms of caps on student numbers to enable appropriate mitigation measures to be implemented and prevent increases where mitigation has not been assessed or implemented.

Short-term portable classrooms:

Short-term portable classrooms as exempt development are currently permitted to remain onsite up to 24 months. Within the amendments there is the proposal is to increase this time limit to 48 months. We note that there is no population cap or floor area cap on this type of exempt development, even if there is a DA specifying a school population cap. This appears to be a loophole that, if exploited, could result in unlimited traffic generation impacts.

There is also a question of permissibility if the demountable was removed and then reinstalled (or replaced by another demountable) shortly after removal. Duration-based limits can be problematic. We have concerns with this potentially being exploited and leading to traffic impacts that are not properly assessed and mitigated. We request clarification on how the ‘removal and replacement’ issue would be prevented. At a minimum we request a clause is to be inserted similar to clauses 36(2) and (3) to reinforce the 10% or 30 students rule and the DA consent condition population cap rule.

Universities and TAFEs:

Clause 46 and 53 of the ESEPP currently allows development of one storey facilities to be permitted by or on behalf of a public authority without development consent on land within the boundaries of an existing tertiary facility. Clauses 46(1)(a) and 53(1)(a) restrict the development to one storey. The proposed ESEPP amendments would allow for two storey facilities as long as there is no alteration to traffic or transport arrangements, and no contravention to an existing condition of consent.

TfNSW has concerns with this proposed approach, as an increase of GFA without DA consent has significant risk of traffic increases not being adequately assessed and mitigated, particularly for large educational establishments such as universities or TAFEs. If DA consent was required for two storeys works, adequate mitigation measures could be implemented as conditions of consent.

*Supporting Guidelines***Pedestrian safety:**

TfNSW is strongly supportive of including consultation requirements with TfNSW in the '*Guide to the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*', however the proposed wording requires amendment.

TfNSW would like the wording in relation the description of TfNSW's authority for traffic control devices to reflect that TfNSW has a concurrence role for all works on classified roads, and for traffic signals and speed zones on all roads.

Local council is the consent authority under the *Roads Act* for traffic signs, road markings, or other devices, to direct or warn traffic on, entering or leaving an unclassified road (with the exception of works involving traffic signals and speed zone changes on local roads, for which TfNSW is responsible).

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 3:10:40 PM
Attachments: [submission-education-sepp.pdf](#)

Submitted on Thu, 17/12/2020 - 15:07

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Melissa

Last name

Stilloni

I would like my submission to remain confidential

No

Info

Email

melissa.stilloni@campbelltown.nsw.gov.au

Suburb/Town & Postcode

Campbelltown 2570

Submission file

[submission-education-sepp.pdf](#)

Submission

See attached submission on behalf of Campbelltown City Council.

I agree to the above statement

Yes



File no: F15/1234-03

23 December 2020

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir or Madam,

Blacktown Council's submission on the proposed changes to the SEPP (Educational Establishments and Child Care Facilities) 2017

We welcome the opportunity to comment on the Explanation of Intended Effect (EIE) for the proposed changes related to SEPP (Educational Establishments and Child Care Facilities) 2017.

We are supportive of facilitating a more streamlined assessment process to ensure the delivery of school infrastructure and student housing and implementing controls to ensure that child care centres in low density residential areas do not impact on residential character and amenity.

We are of the view that some of the proposed changes will further remove local government from the decision-making process, which may have an adverse impact on communities, particularly in low density residential areas.

Our concerns generally relate to the cumulative impact of developments that may be identified as exempt or development without consent and how the cumulative impact of such developments will be assessed and managed.

Table 1 below provides our detailed comments on the relevant components of the EIE for your consideration:

Proposed Reform	Blacktown City Council (BCC) Comment
Proposed Reform #1: Local provisions that apply to land adjoining an existing educational establishment will apply to the land on which the educational establishment is situated if a site compatibility certificate (SCC) has been issued and the educational establishment is on State land.	<p>BCC Comment #1: We do not support this change as it is considered that this process will circumvent the planning proposal process and the question is whether the NSW Government should be involved in fast tracking rezoning land for school sites.</p> <p>The ability to allow for an adjoining land use to be permitted on a school site with a site compatibility certificate (SCC) may result in increased divestment of school land by DEC, particularly where there is pressure for increased development (for example, where a school may be situated adjacent to a R4 high density zone).</p>

Connect - Create - Celebrate

Council Chambers - 62 Flushcombe Road - Blacktown NSW 2148

Telephone: (02) 9839 6000 - DX 8117 Blacktown

Email: council@blacktown.nsw.gov.au - Website: www.blacktown.nsw.gov.au

All correspondence to: The Chief Executive Officer - PO Box 63 - Blacktown NSW 2148

Proposed Reform	Blacktown City Council (BCC) Comment
	<p>There would need to be a rigorous process in place to ensure that there is adequate land for future educational purposes based on the strategic plans that identify future population growth. Although it is proposed to require a SCC, there would need to be sufficient justification, strategic merit and identification of community benefit for any change to educational land so as to ensure that land which may be required for future educational purposes is not sold off or sterilized.</p>
<p>Proposed Reform #2: To allow an existing educational establishment to expand onto adjoining land where educational establishments are not permitted, provided that a site compatibility certificate (SCC) has been issued.</p>	<p>BCC Comment #2: The expansion of school sites onto adjoining sites where a SCC is issued and the school site is on State land provides opportunity for expansion of the school if it is on a constrained site and is supported in principle. This support is subject to there being rigorous and detailed assessment as part of the SCC, particularly with respect to parking and traffic, and potential impacts on existing residential development.</p>
<p>Proposed Reform #3: Development for the purpose of two storey facilities by or on behalf of a public authority within the boundaries of existing schools, TAFEs or tertiary institutions are proposed to be development without consent. In schools, the amendments are subject to the development not exceeding the equivalent of an additional classroom (30 students) or 10% of the existing student or staff numbers, whichever is the greater.</p>	<p>BCC Comment #3: Supported in principle, with measures - The proposed amendments could create issues if measures are not in place to ensure that there are minimal adverse impacts to adjoining properties.</p> <p>Any development proposed under these provisions should be appropriately setback from adjoining property boundaries, particularly where a facility adjoins single dwelling houses. To ensure that there is minimal impact to adjoining properties, proposed setbacks should be consistent to what would be required for a two storey dwellings house (minimum 1200mm).</p> <p>This pathway would need to ensure that there is not an opportunity to expand additional classrooms without development consent on multiple occasions and should only be permitted to be enacted as development without consent on only one occasion to reduce the cumulative impacts of the intensification of the school, TAFE or tertiary institution.</p> <p>Allowing this pathway to be utilized on more than one occasion may result in unreasonable impacts to neighborhood amenity, including the generation of additional traffic and parking.</p>
<p>Proposed Reform #4: Apply restrictions on the hours of operation for exempt development for the purpose of school-based child care. The hours of operation would be the same as those currently applying to complying development: no operation on a Saturday or Sunday or before 7am or after 7pm. These</p>	<p>BCC Comment #4: No objection to proposed reform #4</p>

Proposed Reform	Blacktown City Council (BCC) Comment
<p>hours of operation would only apply where there is no existing condition on a development consent applying to the school relating to hours of operation.</p>	
<p>Proposed Reform #5: Currently temporary classrooms (such as demountable classrooms) are exempt development if removed within 24 months of being installed. This is proposed to be increased to 48 months.</p>	<p>BCC Comment #5: We do not support an increase to 48 months for the timeframe for temporary classrooms to be removed.</p> <p>According to New South Wales data (2018) demountable classrooms are concentrated in western Sydney and in 2018, the Riverstone electorate had the highest number of demountable classroom (168) in the Blacktown LGA. Demountable classrooms often also take up playground areas and sports fields, creating additional issues.</p> <p>The increase in the number of demountable classrooms across Sydney, and in particular western Sydney indicates how capital works have lagged in the areas that have had significant population growth and need more school infrastructure. This is the issue that needs to be addressed.</p>
<p>Proposed Reform #6: Amend State Environmental Planning Policy (State and Regional Development) 2011 to introduce a capital investment value trigger for new schools and increase the capital investment value trigger for alterations and additions to schools and for new tertiary institutions.</p>	<p>BCC Comment #6: This reform is supported in principle.</p> <p>Schools of less than \$20 million as local development is appropriate considering the scale of this development and if proper assessment and guidelines are given to councils.</p> <p>Increasing the trigger for development to be state significant development from a CIV of \$20 million to \$50 million for alterations and additions to schools, and a CIV from \$30 million to \$50 million for tertiary institutions, will give back the responsibility of assessment to council</p>
<p>Proposed Reform #7: Currently the Education SEPP contains clauses to ensure that development permissible without consent and complying development do not contravene any existing conditions of consent applying to the subject site.</p> <p>The provisions currently refer to the 'most recent development consent'. This is proposed to be amended to 'the most relevant development consent'.</p>	<p>BCC Comment #7: We have no objection to this change and agree that the change would ensure that all valid and relevant conditions of consent are considered.</p>

Proposed Reform	Blacktown City Council (BCC) Comment
<p>Proposed Reform #8: Introduce provisions to prevent child-care centres within close proximity of each other in low density residential zones (R2). A separation distance of 200 m between child-care centres is being considered.</p>	<p>BCC Comment #8: The amendment seeks to address concerns raised about amenity impacts, such as noise and traffic, arising from child-care centres being in close proximity to one another however what was the criteria for the how the separation distance of 200m was determined.</p> <p>There needs to be advice/guidance on how the separation distance should be calculated. This needs to be clear and concise to ensure that there is no debate between assessment planners and applicants/developers.</p>
<p>Proposed Reform #9: Make student housing permissible with consent within the boundaries of an existing educational establishment.</p>	<p>BCC Comment #9: This amendment is supported in principle however further detail is required to ensure that any development is consistent with development in the adjoining zone/site, particularly where there are no height/FSR controls within the existing zone.</p> <p>Any provisions need to be clear on how we define the boundaries – is it land zoned for the purposes of an educational establishment?</p> <p>We are still waiting on the release of the Housing Diversity SEPP to understand the proposed provisions relating to student housing on how this will impact on council generally.</p>
<p>Proposed Reform #10: Expand the SEPP to permit 'innovation hub activities' on existing tertiary institutions as development permissible with consent.</p>	<p>BCC Comment #10: This proposed reform is supported in principle however further detail is required as to how an innovation hub activity will be defined and whether there will be a maximum commercial component permitted as part of the use.</p> <p>The extent of commercial development needs to be defined so as to ensure that any commercial use is ancillary and does not detract from commercial functions in existing commercial centres. The definition should also be clear in stating that residential uses will not be permitted.</p>

Should you have any questions or queries regarding our submission, please do not hesitate to contact Rita Vella, Coordinator Planning Policy on 9839 5909 or rita.vella@blacktown.nsw.gov.au

Yours faithfully


Trevor Taylor
Manager Development Policy and Regulation

818 Pacific Highway, Gordon NSW 2072

Locked Bag 1006 Gordon NSW 2072

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Submission – Review of the Education SEPP 2017

Ku-ring-gai Council welcomes the opportunity to provide feedback on the exhibited Explanation of Intended Effects for the proposed amendments to the Education SEPP. The education sector in Ku-ring-gai is a major employment activity with many schools with substantial land holdings and facilities.

This submission has been prepared by Ku-ring-gai Council staff. Due to the lead time for reporting to Council Meetings, it has not been formally endorsed by Council.

Ku-ring-gai Council made a detailed submission to the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. This original 2017 submission has been reviewed, alongside the Explanation of Intended Effects, exhibited November 2020.

The detailed comments forming Councils submission are outlined on the following pages 2 - 5.

Council may provide a supplementary submission on this matter.

If you have any questions regarding this submission, please contact Alexandra Plumb, Urban Planner on aplumb@kmc.nsw.gov.au or 9424 0795.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Antony Fabbro', is positioned above the printed name.

Antony Fabbro
Manager, Urban and Heritage Planning

Ku-ring-gai Council Submission – Review of the Education SEPP 2017

1. Clarifying permissible uses on State Land and clarifying circumstances where schools can be expanded

The EIE notes that it is proposed to reword subclause 16(2) and 16(3) in order to:

- permit development that is currently permitted with development consent under an environmental planning instrument on land adjacent to land containing an existing educational establishment if there is a valid site compatibility certificate applying to the development and the land containing the educational establishment is prescribed state land.
- permit development that is permitted with development consent on land where there is an educational establishment to be carried out with development consent on land adjacent to the education establishment if there is a valid site compatibility certificate applying to the development and the adjacent land is prescribed state land.

The Council submission from 2017 objected to the provisions allowing site compatibility certificates to be issued to permit a school site to adopt the zoning of the adjoining land to facilitate additional facilities, and for the disposal of surplus educational land, as it would see a potential reduction in land available for educational purposes and is contrary to the stated objectives of the SEPP, which is to provide for the growing demand for educational establishments.

2. Restricting child care centres within close proximity of each other in low density residential zones

The EIE notes that concerns have been raised about amenity impacts, such as traffic and noise, arising from child care centres being in close proximity to each other in Low Density Residential zones (R2), and that in response a minimum separation distance is being considered. Council's submission to the draft SEPP in 2017 outlined that Council supported permitted centre-based child care centres in the R2 zone, on the condition that it is supported by appropriate planning controls to protect the local amenity. Accordingly, Council is supportive of the proposal to introduce a minimum separation distance between centre-based child care facilities as a measure to address amenity impacts.

The EIE suggests a minimum distance of 200m, however no information has been provided as to how this distance was selected. If the proposed separation distance is aiming to alleviate traffic impacts then a greater separation distance may be required. There is also no information on how the distance will be measured, for example will it be a 200m linear distance within a street? Or a 200m radius in any direction?

Should the SEPP be amended to include a control in relation to the minimum separation distance between child care centres, then the control should be

established as a “must not consent clause”. The control needs to be supported by very clear and well prescribed methods on how the separation distance is calculated so that there is no uncertainty or ambiguity.

3. School development permitted without consent for two-storey buildings and tertiary institution development permitted without consent for two-storey buildings

The Council submission from 2017 raised significant concerns with, and did not support non-government schools being prescribed as public authorities and thus enabling them to use the development without consent provisions of the Education SEPP. As private entities, non-government schools do not have the level of accountability to the broader community or the internal processes, or financial motivation to rigorously assess development under Part 5 of the EP&A Act. The submission also raised concern that the *NSW Code of Practice for Part 5 activities for registered non-government schools*, which provides the statutory framework for non-government schools to undertake Part 5 Assessments, is too reliant on self-regulation. These concerns are reiterated having consideration for the proposed development without consent amendments.

Currently Clause 36, Clause 46 and Clause 53 of the Education SEPP allows existing schools and tertiary institutions to develop of one storey buildings without development consent, and it is proposed to increase this to a maximum of two storeys permitted without consent. Council does not support the proposal to permit development without consent for two storey buildings. The proposed increase in height also increases the potential for adverse impacts such as poor urban design outcomes, solar access and overshadowing, privacy impacts for adjoining properties, and it is Council’s concern that these adverse impacts may not be adequately or rigorously considered as part of the Part 5 assessment by non-government schools or tertiary institutions.

4. Planning pathways for development affected by 10% student cap

The EIE notes that Clause 36 of the SEPP currently allows the development of one storey school facilities without development consent, subject to a 10% cap on student numbers or staff employed at the school. The EIE proposes to amend the current 10% cap to *‘equivalent to an additional classroom (30 students) or 10% of the existing student or staff number, whichever is greater.* The EIE notes the reason for the proposed amendment is that it is disadvantaging smaller regional and rural schools, which have low student numbers, as the 10% cap does not permit much growth. As the reasoning for the amendment is to directly benefit smaller regional and rural schools, then it is suggested that the proposed amendment only apply to schools in regional and rural areas, and leave schools within the metropolitan areas with the current 10% cap.

5. Allowing shops selling school related supplies

The EIE notes that clarification is required regarding what can be sold in schools under subclause 39(1)(a)(v). The drafting of the wording within the clause needs to clarify that the goods sold within schools must be related to the school use, and not of a general nature to serve the wider public.

6. Consulting with TfNSW about changes to pedestrian access points

The EIE notes that an amendment is proposed to include the requirements to consult with TfNSW around changes to pedestrian access points at schools in order to allow TfNSW to assess the appropriateness of the pedestrian access point changes and to ensure pedestrian safety. This amendment is supported.

7. Child Care Planning Guideline – Requirements for centre-based child care to consider local character

The issue of child care centres and consideration of local character is a key concern of Council. Council's submission from 2017 noted that centre-based child care in the R2 zone would be supported, on the condition that it is supported by sufficient and appropriate planning and design controls to protect the visual character of residential neighbourhoods. Residential areas in Ku-ring-gai are characterised by buildings within a landscape setting with large canopy trees. The Ku-ring-gai DCP has well developed controls addressing these matters, and have been tailored to Ku-ring-gai's specific character. As previously outlined in the 2017 submission to the Draft Education SEPP, Council recommends that the Child Care Planning Guidelines be amended to allow existing DCP controls to apply. This would deliver a much more successful outcome for consideration of local character, in lieu of the proposed amendment to update the Child Care Planning Guideline with references to consider the Department of Planning's Local Character and Place Guideline.

8. Threshold triggers for State significant development

Currently all new schools, and many alterations and additions to schools and tertiary institutions are considered State Significant Development. The EIE proposes amendments to the threshold triggers for State Significant Development, including:

- Amendment to introduce a requirement for the capital investment value for new schools to be \$20million. Currently all new schools regardless of the capital investment are State significant development.
- Amendment to increase the capital investment value for alterations and additions to existing schools from \$20million to \$50million, and to permit demolition and redevelopment of an existing school via this clause.
- Amendment to increase the capital investment value for tertiary institutions from \$30million to \$50million.

The proposed amendment to introduce a capital investment value for new schools of \$20million will mean that new schools with a capital investment value of less than \$20million (which would be smaller scale schools), will either go through the complying development assessment pathway, or will be assessed as local development by the local council. New schools with a capital investment value of \$20million or more will still be assessed as State Significant Development. The proposed amendment to increase the capital investment value for alterations and additions to existing schools from \$20million to \$50million will mean that more projects will go through the complying development pathway. The proposed amendments to the capital investment value for state significant development for new schools, and alterations and additions will mean that more projects will go through the complying development assessment pathway.

As outlined in Council's 2017 submission, Council has significant concerns with the complying development provisions which permit 4 storey/22m new buildings that have the potential to have significant environmental and amenity impacts on neighbours and surrounding communities. It is Council's view that the complying development framework cannot adequately consider such issues, and should be either assessed as local development by the local Council, or as State Significant Development.

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 5:26:24 PM
Attachments: [lgsw-draft-submission-on-education-sepp.pdf](#)

Submitted on Thu, 17/12/2020 - 17:22

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Jane

Last name

Partridge

I would like my submission to remain confidential

No

Info

Email

jane.partridge@lgsw.org.au

Suburb/Town & Postcode

2000

Submission file

[lgsw-draft-submission-on-education-sepp.pdf](#)

Submission

Please find LGNSW draft submission attached.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 5:59:10 PM
Attachments: [education-sepp-comments-dec-20.pdf](#)

Submitted on Thu, 17/12/2020 - 17:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Natalie

Last name

White

I would like my submission to remain confidential

No

Info

Email

natalie.white@penrith.city

Suburb/Town & Postcode

Penrith 2750

Submission file

[education-sepp-comments-dec-20.pdf](#)

Submission

Submission as attached.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 6:00:17 PM
Attachments: [heritage-nsw-response---review-of-sepp-\(educational-establishments-and-child-care-facilities-2017\).pdf](#)

Submitted on Thu, 17/12/2020 - 17:58

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

James

Last name

Sellwood

I would like my submission to remain confidential

No

Info

Email

HeritageMailbox@environment.nsw.gov.au

Suburb/Town & Postcode

2150

Submission file

[heritage-nsw-response---review-of-sepp-\(educational-establishments-and-child-care-facilities-2017\).pdf](#)

Submission

Please see attached, Heritage NSW's response to the proposed amendments to State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

I agree to the above statement

Yes

Our Reference: 1127#
NA: SG

Director Infrastructure Policy & Assessment Practice
NSW Department of Planning, Industry & Environment
Locked Bag 5022,
Parramatta NSW 2124

17 December 2020

Dear Sir/Madam,

WOLLONDILLY SHIRE COUNCIL SUBMISSION - REVIEW OF THE EDUCATION SEPP 2017

Thank you for the opportunity to provide feedback on the review of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP).

Wollondilly has been working under the Education SEPP and associated guidelines since 2017 and so is aware of many of the complexities and challenges associated with such a comprehensive policy and so we support this review and broadly support the proposed changes that are being considered to improve interpretation the SEPP. As a broad statement, we also note that in order to service any proposed developments carried out under the Education SEPP, infrastructure and servicing needs to be provided upfront.

Since the implementation of the SEPP, we have assessed (18) applications for child care centres, including one home based child care centre and nine (9) proposals associated with educational establishments that have ranged from new classrooms to glass houses.

Over the last twelve months, our Council has also been piloting additional requirements for social and health impact assessment at the development application and strategic planning stages and we hope to publically exhibit a policy to formalise these requirements in early 2021.

During the pilot, four applications for child care centres and one for an expansion to an existing primary school have been given additional consideration under this new process. Drawing on these experiences we would like to offer the following comments that are both specific to the proposed changes to the Education SEPP and discuss matters for additional consideration and perhaps further amendments to the Education SEPP and supporting documents.

Please note that, due to the limited exhibition period for this review, we have not had the opportunity to report the proposed changes to Council, and so our comments are based on staff experiences working under this policy. A copy of this submission will be provided to our elected Council.

Innovation spaces/hubs within existing tertiary institutions

We generally support the introduction of Innovation hubs within existing tertiary institutions provided they are supported by a Cost Benefit Analysis and a commercial / retail analysis so that they won't detract from centres (for sites out of centre)..

Restricting child care centres within close proximity of each other in low density residential zones

The intention to reduce impacts on amenity in residential zones is noted, however, we question the equity in limiting child care centres within a 200m radius and wonder if this matter has been equally considered under all the heads of consideration.

This restriction is also likely to create issues in our growth and new release areas, as it would effectively operate on a first in, first served basis. Which could also potentially create problems for in the case where two development applications (that are within 200m of each other) are being assessed by Council at the same time. Therefore, further clarity is required in regard to the implementation of this restriction and the relationship to the development assessment process.

This restriction may also remove any opportunity for better quality child care centre to be built in an area where a poorer quality centre already exists, or where 'healthy' competition can coexist.

Bush fire prone land

We would like to raise some concern with the proposed amendment to clause 30 (3) and Schedule 3, clause 14(1) which seeks to remove reference to partially bushfire prone land to allow home based child care centres as Complying Development on lots where that part of the site falls outside of the mapped as bushfire prone area.

Council has concerns with this approach in that under the proposed changes, a Home Based Child Care Facility could be undertaken as a Complying Development approval on a lot without the need to consult with RFS, or any requirement to comply with bushfire standards (as is currently the case). This could see a situation arise where a site is located on mostly bushfire prone land but the Home Based Child Care Centre would not need to comply with any bushfire requirements if it were on the non-bushfire prone part of the site which poses a significant risk, particularly in terms of evacuation.

Council has also previously received legal advice to the effect that a "home based child care centre" does not meet the definition of a "child care centre" under the Standard Instrument – Principal Local Environment Plan 2006 and so does not trigger an integrated development referral under 100B of the Rural Fires Act.

As such, even if the Home Based Child Care Facility does not meet the standards in the SEPP for Complying Development and requires a development application, it would also not fall under the same requirements as a Development Application for a Child Care Centre (in that it would not depend on General Terms of Approval from the RFS on Bushfire Prone Land). These points seem to indicate that there is an elevated risk for Home Based Child Care Facilities as opposed the Child Care Centres in the Planning System.

This is of concern in our Shire given the significant impacts were experienced last summer and we recently gave evidence to the Bushfire Royal Commission into Natural Disaster Arrangements. As part of this submission we highlighted the issue of limited access points for evacuation by road during the Green Wattle Fire Event.

A link to the submission is provided here:

<https://naturaldisaster.royalcommission.gov.au/system/files/exhibit/WOL.500.001.0001.pdf>

Relaxing the approval pathway for home based child care centres on land mapped as bushfire prone, may result in an increased risk to children and their carers during a bushfire event.

Enabling student housing on sites with existing educational establishments

We are generally supportive of the proposal to enable student housing on sites with existing educational establishments and have recently made comments to this effect in our submission on the Draft Housing Diversity SEPP. This is on the basis that adequate and appropriate infrastructure and servicing arrangements are in place to service the development, including reticulated water and sewer.

Site compatibility certificates and development consent for non- government schools

Wollondilly has one state owned secondary school in Picton and one private K-12 school in Tahmoor. The area is also home to approximately 4,269¹ young people aged 12 to 17 years and so many secondary school students have to travel outside the Shire to attend school each day.

The private K-12 school is currently going through the lengthy and expensive planning proposal process to rezone adjoining land to allow for expansion of the school to meet some of the demand. This process could have been avoided if the provisions in the SEPP supported the expansion of schools on privately owned land.

Therefore, we suggest considering the pros and cons associated with amending these provisions to allow private schools to expand in the same manner, perhaps when there is a demonstrated demand.

Acoustic measures and impacts on access to open space and natural ventilation

The current SEPP and corresponding Education and Care Services National Regulations requires that each child in a centre based child care be provided with a minimum of 7m² of unencumbered outdoor space. This is also outlined in the NSW Child Care Planning Guideline (the Guideline).

One of the issues we have experienced is that the term, *unencumbered outdoor space* as defined in the Guideline does not include any consideration of physical access to this outdoor space. This has caused problems when the number of hours children can access outdoor open space has to be limited in order to comply with acoustic attenuation measures.

The Guideline requires under C24 (p. 16) that “a suitably qualified acoustic professional should prepare an acoustic report”. These acoustic professionals, when preparing a report refer to the AAAC Guideline for Child Care Centre Acoustic. The guideline notes (p. 6) that a higher level of noise (up to 10dB) is acceptable for outdoor play but this is limited to two hours per day and that outdoor play with a lower level of noise (5dB) may be carried out for longer than 2 hrs.

As there is no cap on centre numbers, children in centres with larger numbers are more likely to be limited in their access to outdoor play to as little as 2 hours per day.

¹ Profile i.d (2020). *Wollondilly Community Profile - Service age groups (2016)*.

Another issue relating to meeting acoustic requirements is that centres with larger numbers of children will often have time limits in which they can open windows and allow for natural ventilation. This creates a reliance on artificial ventilation sometimes in low density residential areas and impacts both the environment and the health of the children at the centre who are more than likely already limited to two hours of outdoor play a day.

We do not believe that it is the intention of the SEPP and the Guideline to create circumstances where children are limited in their access to outdoor play and natural ventilation. Therefore, we would support further consideration of changes to address these issues.

Should you wish to discuss any aspect of this submission, please contact me on 024 677 9624 or via email stephen.gardiner@wollondilly.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Gardiner', written in a cursive style.

Stephen Gardiner
Manager Sustainable Growth
WOLLONDILLY SHIRE COUNCIL

17 December 2020

Our Ref: 2020/566290
File No: X039730

Jennifer Richardson
A/Director, Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

By email: education.sepp@planning.nsw.gov.au

Dear Jennifer

Review of the Education SEPP 2017

Thank you for the opportunity to comment on the proposed amendments to State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. It is understood that the amendments include:

- a new control to restrict child care centres within close proximity to each other in a low density residential zones
- enabling student housing on education sites, with development consent, in response to the new Housing Diversity SEPP defining student housing
- permitting school development to 2 storeys without consent (was 1-storey)
- extending timeframes for short-term portable classrooms to remain erected as exempt development from 24 months to 48 months
- changes to Capital Investment Value (CIV) thresholds to classify education projects as either local or State-significant development [via an amendment to State Environmental Planning Policy (State and Regional Development) 2011] as follows:

	Current SSD threshold	Proposed SSD threshold
New school	\$0	\$20 million
Alteration and additions to an existing school	\$20 million	\$50 million
Development associated with a tertiary institution	\$30 million	\$50 million

The Explanation of Intended Effects outlines that current capital investment values are capturing small scale schools and tertiary institutions that are not considered to be of State-significance and the current State-significant development approval pathway is considered to be too onerous for these local developments where there are not significant impacts.

It is the City's long held position that its Central Sydney Planning Committee or Sydney Local Planning Panel should be the consent authority for all education establishment proposals within the City of Sydney.

The City is distinct from other councils in NSW due to the City of Sydney Act 1988, which establishes the Central Sydney Planning Committee. This is a unique Committee with State and local government representation and is the consent authority for all significant local development with an estimated cost of more than \$50 million.

The Sydney Local Planning Panel also has the responsibility for determining of a range of major applications including those classified as designated development and applications subject to 25 or more unique submissions.

The City has demonstrated the resources, commitment and proven experience to assess and determine large scale projects. The City is of the opinion that the thresholds in the State and Regional Development SEPP should be amended to factor in the City's Central Sydney Planning Committee and Sydney Local Planning Panel, in relation to the assessment of education establishments.

The proposed changes to the Child Care Planning Guidelines are noted. It is suggested that the Australian Building Codes Board be consulted, and the guideline amended to address clause D1.18 of the Building Code of Australia, introduced 1 July 2020, and the application of the new BCA clause regarding the need to develop performance-based solutions for multi-level child care centres.

Should you wish to speak with a Council officer about the above, please contact Tim Wise, Manager Planning Policy on 9265 9333 or at twise@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A-T', enclosed in a thin black rectangular border.

Andrew Thomas
Acting Director
City Planning | Development | Transport

From: noreply@feedback.planningportal.nsw.gov.au on behalf of [Planning Portal - Department of Planning and Environment](#)
To: [DPE PS Education SEPP Mailbox](#)
Cc: [DPE PS ePlanning Exhibitions Mailbox](#)
Subject: Webform submission from: Review of the Education SEPP 2017
Date: Thursday, 17 December 2020 9:47:46 PM
Attachments: [submission---city-of-newcastle---eie-education-sepp---17th-december-2020.pdf](#)

Submitted on Thu, 17/12/2020 - 21:45

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Peter

Last name

Milles

I would like my submission to remain confidential

No

Info

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pmilles@ncc.nsw.gov.au

Suburb/Town & Postcode

Newcastle

Submission file

[submission---city-of-newcastle---eie-education-sepp---17th-december-2020.pdf](#)

Submission

Please see attached submission. Thankyou Peter Milles - Urban Planner CN

I agree to the above statement

Yes

17 December 2020

Attention: Director Infrastructure Policy and
Assessment Practice NSW Department of
Planning, Industry and Environment
Locked Bag 5022,
PARRAMATTA NSW 2124

Email: information@planning.nsw.gov.au

**Explanation of Intended Effect – Review of State Environmental
Planning Policy (Education Establishments and Child Care Facilities) 2017
& associated guidelines/documents (the Review)**

Dear Sir/Madam

Thank you for the opportunity to make a submission on the Review.

The following submission has been prepared by Council officers, from a land use planning perspective and has not been adopted by Council.

The stated intent of clauses 16(2) and 16(3) appears quite different to how they would be currently interpreted. Hence these should be considered changes as opposed to clarifications.

Regarding the Clause 16(2) changes, many non - school related uses on school grounds such as residential, may not be appropriate because of the strong potential for uncontrolled interaction between residents and students.

For the same reasons, introducing student housing on school grounds, where residents are not students at the subject school, is opposed.

The proposed amendment to Clause 36 to permit a (overall maximum) two storey school facility (e.g. library, classroom, cafeteria, etc.) to be permitted by or on behalf of a public authority without development consent is opposed. This has the potential for significant amenity impacts to neighbouring land uses, particularly given the higher floor to ceiling heights in school facilities.

Regarding clarification of application of conditions of consent, it is recommended the relevant wording be to replace 'most recent development consent' with 'all relevant development consents', and not 'most recent development consent'.

The changes proposed for Clauses 46 and 53 to allow schools to undertake development permitted without consent to a maximum of two storeys, are opposed. Those same parameters proposed for universities and TAFEs are also opposed. These have the potential for significant amenity impacts to neighbouring land uses, particularly given the higher floor to ceiling heights in school/institutional facilities.

Notwithstanding this submission opposing proposed housing and other incompatible uses within school grounds, there is no provision to address amenity (including noise issues) for uses proposed to be able to be developed within school grounds.

Changes proposed to the Child Care Planning Guideline to replace specifying “year round solar access to at least 30 per cent of the ground area, with no more than 60 per cent of the outdoor space covered” for outdoor play areas at centre based child care facilities”, with “have a minimum of 2 hours of solar access between 8am and 4pm in winter (March 21 to September 21), to ensure a minimum 2.1m² of outdoor space per child”: are questionable. Where is the 2 hours derived from? Is it sufficient? Also using 21 June to describe winter seems a clearer way of expressing this.

Regarding the **Code of Practice NSW** - Notification timeframe inconsistency, it would be preferable to use 21 business days, not calendar days.

Council notes the Review provides greater potential for more types of major development to be carried out without consent or via complying development. Council opposes the concept of these types of development not being subject to an independent assessment of impacts, that would otherwise occur via a development application process.

Should you have any enquiries regarding this letter, please contact Geoff Hoynes, Group Manager City Planning on telephone (02) 4221 6246.



Geoff Hoynes
Group Manager City Planning



Bayside Council

Serving Our Community

21 December 2020

Our Ref: F10/47.002

Contact: Howard Taylor – 9562 1663

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022,
PARRAMATTA NSW 2124

Via email: education.sepp@planning.nsw.gov.au

Dear Sir/ Madam,

Re: Review of the Education SEPP 2017

Council appreciates the opportunity to comment on the Explanation of Intended Effect (EIE) on the Proposed Amendments to *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Education SEPP).

In addition to the proposed amendments to the Education SEPP, Council staff understand that the Department of Planning, Industry and Environment (Department) proposes to amend *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP).

Proposed changes to the Education SEPP

Council staff have reviewed the proposed amendments to the Education SEPP and provide the following feedback:

- *Definitions*

Council staff note and support the amendment to the definition of 'educational establishment' such that it captures the requirement for any new campus that is located a distance from an existing registered school to be assessed as a new school.

- *Clarification of terms in vegetation clearing clause*

Council staff note and support the proposed removal of 'ringbarking'.

- *Correcting cross referencing*

Council staff note the proposed administrative amendment.

Postal address

PO Box 21, Rockdale NSW 2216

ABN 80 690 785 443

Bayside Customer Service Centres

Rockdale Library, 444-446 Princes Highway, Rockdale

Westfield Eastgardens, 152 Bunnerong Road, Eastgardens

E council@bayside.nsw.gov.au

W www.bayside.nsw.gov.au

T **1300 581 299 | 02 9562 1666**

Telephone Interpreter Services: 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمة الترجمة الهانفية

電話傳譯服務處

Служба за преведување по телефон

- *Updating Department names*

Council staff note the proposed administrative amendment.

- *Clarifying permissible uses on State land*

Council staff note and support the amendment to Clause 16(2) allowing for permissible uses on adjoining land to be undertaken within the grounds of the educational establishment, noting the requirement for a Site Compatibility Certificate.

- *Clarifying circumstances where schools can be expanded*

Council staff note and support the amendment to Clause 16(3) allowing for an existing education establishment to expand onto adjoining land, if a Site Compatibility Certificate has been issued.

- *Restricting child care centres within close proximity of each other in low density residential zones.*

Council staff note and support the amendment to 25(2)(a) requiring a minimum distance between child care centres in R2 Low Density Residential zones.

- *Bush fire prone land*

Not applicable to the Bayside Local Government Area.

- *Enable student housing within existing educational establishments*

Council staff note and support the proposed amendments to facilitate the delivery of student housing on existing educational establishment sites.

- *Planning pathways for development affected by a 10% student cap*

The proposed changes predominantly affect small regional and rural schools, and is therefore not relevant to the Bayside LGA.

- *School development permitted with consent for two-storey buildings*

Council staff note and support the proposed amendments to allow two storey buildings within the boundaries of an existing school, noting that this scale of development is similar low density residential development and would be subject to environmental assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*.

- *Clarification regarding application of conditions of consent*

Council staff note the proposed administrative amendment.

- *Directional signage and information boards*

Council staff note the proposed administrative amendment.

- *Exempt development standards for school-based child care*

Council staff note the proposed administrative amendment to impose restrictions on the hours of operation for exempt development in relation to school-based child care.

- *Timeframes for short-term portable classrooms (e.g. demountables) as exempt development*

Council staff note the proposed amendment to enable schools to manage structures, such as demountables, to accommodate student numbers.

- *Teaching facilities to include classrooms*

Council staff note the proposed amendment.

- *Canteens as complying development*

Council staff note the proposed amendment.

- *Allowing shops selling school related supplies*

Council staff note the proposed amendment.

- *External property boundaries*

Council staff note the proposed amendment.

- *Tertiary institution development permitted without consent for two-storey buildings*

Council staff note and support the proposed amendments to allow two storey buildings within the boundaries of an existing school, noting that this scale of development is similar low density residential development and would be subject to environmental assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*.

- *Innovation spaces/ hubs within existing tertiary institutions*

Council staff note and support the proposal to expand the Education SEPP to include innovation hub activities on existing tertiary institutions as development with consent.

- *Landscaping associated with new development*

Council staff note the proposed amendment.

- *Garbage and waste storage*

Council staff note the proposed amendment.

Proposed changes to the SRD SEPP

- Council staff note the amendments to the SRD SEPP, which are proposed to facilitate the Education SEPP. In particular, Council staff note the proposed amendment to increase the Capital Investment Value (CIV) threshold to \$20 million for new schools to be declared State Significant Development. This will mean that Council will assess applications for new schools with a CIV less than \$20 million as local development.

If you have any queries regarding this submission please contact Howard Taylor on 9562 1663 or email howard.taylor@bayside.nsw.gov.au.

Yours faithfully



Josh Ford
Acting Manager Strategic Planning

29 December 2020

Director Infrastructure Policy and Assessment Practice
NSW Department of Planning, Industry and Environment
Locked Bag 5022,
Parramatta NSW 2124

Dear Sir/Madam;

Re: Submission – Proposed Changes to the Education SEPP and related policy/guidelines

I am writing in response to the Department's *Review of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 - Explanation of Intended Effects (EIE)*, November 2020, on public exhibition from 20/11/2020 to 17/12/2020.

Council has a keen interest in proposed changes to NSW Government policy and guidelines relating to the development of educational establishments and child care centres. The Mosman local government area accommodates 8 schools (4 State schools and 4 non-government schools) spread over multiple campuses, and 15 child care centres at present.

The EIE notes that changes are proposed in response to requests for clarification of existing provisions, and to further streamline the planning pathway for local school development. It outlines around 30 proposed changes to SEPP (Educational Establishments and Child Care Facilities) 2017 (the Education SEPP), and to Child Care Centre Guidelines, Guide to the Education SEPP, SEPP (State and Regional Development) 2011, Code of Practice NSW, and Department fact sheets and planning circulars.

Whilst most changes proposed are minor, there are some that require further explanation and others that may have a significant impact in Mosman, as explained below.

1. Permissible uses on State land – Proposal to permit development on an existing educational establishment site that is permitted with consent on land adjacent

All State schools in Mosman are zoned SP2 Educational Establishment under Mosman Local Environmental Plan 2012 (MLEP 2012), and all adjoin land zoned for low or medium density residential use (i.e. zones R2, R3 or B2). The proposed change to clause 16(2) of the Education SEPP would allow these sites to be developed for dwelling-houses, residential flat buildings, multi-dwelling housing and the like, despite this not being permissible in the SP2 zone under MLEP 2012. This would not provide certainty for the community regarding the delivery of school infrastructure to meet future demand, nor of the intended use of the land.

Clarification is sought regarding contradictory information on pages 6 and 8 of the EIE. The example given on page 6 regarding the above change is – *“For example, if a government school site is zoned SP1 Special Activities and the land adjoining it is zoned R1 General Residential, it is intended to make residential development a use permissible with consent within the grounds of the existing school if a site compatibility*

certificate has been issued.” However, on page 8 it is noted that a further proposed change to the SEPP would allow student housing to be built on existing educational establishment sites but that “*no other forms of housing will be permissible on educational establishments*”.

2. Expansion of State schools – Proposal to permit development that is permitted with consent on educational establishment sites to be carried out on adjacent land

Three of Mosman’s State school sites adjoin R2 or R3 zoned land within which educational establishments are not a permissible use under MLEP 2012. The proposed change to clause 16(3) of the Education SEPP would enable schools to expand onto neighbouring sites regardless of their land zoning. This would not provide landowners with certainty regarding the boundaries of existing school sites, and raises concerns regarding amenity impacts such as traffic, noise and the like.

3. Restricting child care centres – Proposal to apply a minimum separation distance of 200m between child care centres on land in zone R2 Low Density Residential

Applying restrictions to child care centres proposed to be located in close proximity to each other is reasonable, both for the surrounding residents and for access to centres by families in terms of parking and/or pedestrian access. Parking in Mosman is often at a premium and having sufficient spacing between centres would provide for less competition in finding parking for drop off/pick up children and reducing traffic hazards. Consideration should be given to also applying the minimum separation distance to other residential zoned land, such as zone R3 Medium Density Residential, as the same amenity impacts arising from the operation of a child care centre, such as noise and traffic, would apply.

Most existing child care centres in Mosman are located on land zoned SP2, RE1 or RE2 (and adjoin land zoned R2 or R3) and the remainder are zoned R2 or R3 under MLEP 2012. It is unclear whether the minimum separation distance proposed would apply in the instance where the child care centre site itself is not zoned R2, but is an isolated site surrounded by R2 zoned land. An example is the Northern Nursery Child Care Centre in Wyong Road, Mosman, shown in the image below.



Screenshot from MLEP 2012 Zoning Map. Child care centre in Wyong Road, Mosman, zoned SP2 Child Care Centre, surrounded by land zoned R2 Low Density Residential. This form of land zoning is common in Mosman.

4. School development permitted without consent – Proposal to enable two storey development to be built on an existing educational establishment site if by or on behalf of a public authority

This proposed change increases the height of development permitted without consent from one storey to two storeys. Concern is raised regarding the impact that this may have on surrounding residential properties in terms of overshadowing, privacy and other amenity impacts, as well as view loss. Some existing school sites are located within the Mosman Scenic Protection Area, within which the visual impact of development is a paramount consideration under MLEP 2012.

5. *Consultation with Transport for NSW – Proposal to require consultation with TfNSW around any changes to pedestrian access points at schools*

Consultation with local councils should also be sought when there are proposed changes to access points for both pedestrians and vehicles at schools on local roads. Councils have an understanding of public needs, along with insight into local traffic management, parking and pedestrian safety issues that occur around schools within their local government area. Councils can add historical information on issues that have occurred, specific site information and local knowledge, and have relationships with local school communities, including principals and parents and citizens (P&C) associations. Consulting with local councils can help alleviate future issues with safety of pedestrians, traffic management and parking issues on local roads, which often occur around pedestrian access points.

Clause 10 of the Education SEPP currently requires that Council is consulted with only if a development is “likely to generate traffic to an extent that will strain the capacity of the road system in a LGA”. This should be amended to also include that consultation with the local council is to occur if a development will result in (i) a new vehicular access point to the school, or (ii) a change in location of an existing vehicular or pedestrian access point to the school.

6. *Threshold triggers for State significant development – Proposal to increase CIV for alterations and additions to an existing school thereby expanding scope for school complying development*

The proposal to amend SEPP (State and Regional Development) 2011 to raise the capital investment value (CIV) threshold for alterations and additions to a school from \$20m to \$50m would mean that any such works below \$50m would no longer be State significant development and could be undertaken as complying development under the Education SEPP. Council’s concerns about complying development provisions for schools have been expressed to the DPIE previously (letter 6 April 2017). Of particular concern is the scale of development that can be permissible as complying development - up to 22 metres in height (4 storeys) - which is out of character in Mosman, as most existing schools are located in residential neighbourhoods where the maximum permitted height limit is 8.5 metres (2 storeys). This poses considerable risk to Mosman’s Scenic Protection Area, local character, resident amenity and view loss. Further, the private certification system does not enable adjoining landowners the right to make a submission and have concerns considered. An extract from Council’s letter of 6 April 2017 is included as Attachment 1.

7. *Various changes to Child Care Planning Guideline*

There are various changes proposed to the Child Care Planning Guidelines. Clarification is sought on the following proposed changes, for which there is insufficient or unclear information provided in the EIE:

- *Requirement for centre-based child care to consider local character* - How will reference be made to local character in the guideline? Will this link with the proposed local character clause which is to be an optional inclusion in council LEPs?
- *Site suitability guidance amenity impacts in low density residential areas* - How will the cumulative impact of child care centres in R2 zoned be assessed? Will the regulation of outdoor play spaces above the ground floor in zone R2 apply if a child care centre adjoins R2 zoned land, but is not in itself on R2 zoned land?
- *Solar access minimum standards* - Why is winter defined as March 21 to September 21, and the solar access requirement from 8am-4pm? The EIE notes that the proposed change is aligned with other solar access practices, yet it is noted that other NSW planning legislation defines mid-winter as 21 June, with solar access requirements between 9am-3pm.

- *Site suitability* - Requiring plans showing the arrangement and relationship between rooms within a child care centre facility is important to better provide for best practice site layout, and in the context of neighbouring buildings and roads.

Thank you for the opportunity to comment on this proposal. Please do not hesitate to contact me on 9978 4058 or 0419 784 058, or at k.lynch@mosman.nsw.gov.au, if you would like to discuss these issues further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kelly Lynch', is centered on a light blue rectangular background.

Kelly Lynch
SENIOR STRATEGIC PLANNER

Attachment 1 – Extract from Mosman Council letter dated 6 April 2017 re submission – draft SEPP (Educational Establishments and Child Care Facilities) 2017

1. Expansion of complying development

The draft SEPP proposes an expansion of provisions for complying development, in particular, an increase in the maximum height from 12 to 22 metres. This will pose a considerable risk to views and Mosman's Scenic Protection Area. It also extends complying development well beyond its original intent. Existing provisions under the Infrastructure SEPP have already resulted in undesirable outcomes which will be only be exacerbated under these changes. Concerns are also raised in relation to setback controls that vary based on the neighbouring land use zone.

Increased Height

The Infrastructure SEPP has an existing height limit of 12 metres for complying development. This exceeds the height limit of 8.5 metres applying to Mosman's residential areas under its LEP. Development would be permitted under this SEPP as complying development up to 22 metres in height. This is considered to be excessive in a low density residential zone and would result in development out of scale and context with the surrounding development. The maximum height should be no more than the current 12 metres.

Consideration of views to and from the harbour

The impact of an increase in height and no merit based assessment would be most adverse in Mosman's Scenic Protection Area. This area includes the significant foreshore slopes of Sydney and Middle Harbours. Mosman has three schools located within its Scenic Protection Area. Access to these provisions poses a considerable risk to the natural and visual environment of Mosman and Sydney Harbour, particularly with the proposed height provisions of up to 22 metres. The Scenic Protection Area is currently excluded from the General Housing Code and it should also be excluded from complying development under this draft SEPP.

It is considered that development assessment is the appropriate tool to use to assess view loss. In Mosman, view impacts are carefully considered when relevant, both to and from the Harbour.

Impacts on adjoining development regardless of zone

It is considered that the provisions relating to impact on adjoining development should be reviewed to include residential development regardless of zoning.

Scope and complexity of complying development

Council does not support an expansion into complying development that requires a council certifier rather than a private certifier. The introduction of this requirement would only add further complexity to the system. If the nature of the development means that it is too sensitive to be referred to a private certifier, then complying development is not the appropriate assessment tool and it should instead be a development application, assessed and determined by Council.

Alternative pathway for expansion

A private school in Mosman undertook complying development on the land after receiving Council consent for change of use to educational establishment on the same site. Despite provisions for complying development being restricted to sites already approved for school use, the system can be manipulated, causing confusion and uncertainty in the community.

In 2015, a development application was lodged to change the use of an existing residential flat building into classrooms and linking it to the neighbouring school building with a bridge. This allowed the pattern of built form in the street to remain the same, consistent with the R3 zone and allowed for the retention of a mature street tree. The proposal closely followed the requirements of the Mosman LEP 2012, DCP and the residential zone objectives. This meant that while it was an educational use, Mosman's planning controls ensured that it blended into the residential streetscape. The proposal attracted only one submission, and was approved by Council.

One year later, a complying development certificate was issued for the redevelopment of the site. The proposal was vastly different from what had been approved. In contrast, the development under complying development resulted in an undesirable outcome as it did not have to comply with Mosman planning provisions. It is currently under construction and will result in severe streetscape impacts, with the removal of a street tree and, a disruption to the building pattern in the residential street. The space within the front building line will be devoid of any landscaping. The street frontage now consists of a 3 metre deep excavation within the front boundary, a substation and hardstand and a high brick wall across the street frontage. The image below illustrates the site under construction.



This example demonstrates why expansion of schools into residential zones should involve council consent. It undermines Mosman's local environmental plan and erodes the established character of the streetscape, which has been cultivated through the consistent application of planning controls over decades. It is an example of ad hoc development where schools determine the shape of built environments with no community input.

The Department should re-consider the expansion of complying development provisions.