

Summary of engagement and submissions report

The Engagement and Consultation Summary describes the engagement activities carried out during the development and public exhibition stages of the draft *State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017*.

Introduction

The NSW Government is introducing changes to the planning system to make it easier for education and child care providers to build high-quality facilities.

The State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (SEPP) will make it easier for child-care providers, schools, TAFEs and universities to build new facilities and improve existing ones by streamlining the planning process to save time and money and deliver greater consistency across NSW. The proposed SEPP balances the need for delivery of additional educational infrastructure with a focus on good design.

The SEPP aims to:

- / streamline the planning system for education and child care facilities, including changes to exempt and complying development
- / make NSW the first State to align national requirements regulating early childhood education and care with the State's planning system
- / bring the Department of Education into the planning process, and give child care providers and developers information upfront regarding all national and state requirements for new child care services
- / streamline the delivery of new schools and upgrading existing facilities, with a focus on good design
- / assist TAFEs and universities to expand and adapt their specialist facilities in response to the growing need, and to maintain our reputation for providing world class tertiary education, while allowing for more flexibility in the use of their facilities.

Consultation overview

This summary document describes stakeholder feedback from a range of different engagement activities. It does not capture all views expressed by stakeholders but the main views that were captured during the discussions.

The proposed SEPP and related documents were on public exhibition from 4 February to 7 April 2017. The engagement program adopted a range of strategies to reach as many groups and interested individuals as possible, using both traditional methods and social media as major communication channels.

Stakeholders

Stakeholders who participated in workshops and other engagement activities included:

- / government agencies
- / councils – elected representatives and staff
- / industry groups and individuals, representing education providers from child care services through schools, TAFE and to university
- / community members
- / peak bodies
- / community and other interest groups.

Engagement program

The Engagement Program included a broad range of communication channels such as:

- / teleconferences with councils
- / roadshows (SEPP Review workshops) with councils
- / written submissions during the exhibition period
- / videos on social media (Facebook and Twitter) and the Department’s website
- / stakeholder workshops with selected industry representatives.

Feedback

Overall, the consultation process was very well received and delivered valuable feedback. The teleconferences and workshops successfully established a dialogue on the proposed SEPP with councils and individual council officers, helping to foster improved relationships and facilitate information exchange.

The social media campaign for the child care proposals was successful in reaching the prime target market for child care services (table 2).

Submissions received during the exhibition of the draft SEPP demonstrated thoughtful responses from a range of stakeholders, raising issues that were subsequently addressed through policy revisions and refinements to the various instruments and documents within the package.

Roadshows (SEPP Review Workshops)

The SEPP Review workshops involved strategic planners, planning managers and environmental planners from councils across metropolitan and regional NSW. The workshops were intended to give representatives the opportunity to review and provide comment on several SEPPs that were on exhibition at the time of the workshops.

The Department participated in 10 roadshows. The table below shows the locations, dates and attendance at each workshop.

Table 1 – SEPP Review Workshops

Region	Location	Date (2017)	No. attendees
Southern & Western Regions	Queanbeyan	Tuesday 7 March	14
	Wagga Wagga	Wednesday 8 March	18
	Wollongong	Tuesday 14 March	44
Northern Region	Ballina	Friday 10 March	17
	Cessnock	Friday 17 March	27
	Tamworth	Tuesday 21 March	11
Sydney Metro Region	Parramatta	Monday 13 March	27
	Sydney CBD	Wednesday 15 March	60
	Penrith	Thursday 16 March	22
Western Region	Dubbo	Monday 20 March	28
TOTAL			268

The main issues raised relating to child care included:

- / requirements for the consideration of the Child Care Planning Guideline
- / the possibility of alternative provisions for regional councils
- / land and circumstances where the SEPP applies, especially IN2 zones
- / home-based child care on bushfire prone land.

The main issues raised relating to educational establishments included:

- / council authority
- / exempt and complying development
- / alternative mandated provisions for regional councils
- / land and circumstances where the SEPP applies, especially IN2 zones
- / legislative framework and approvals pathways
- / application of the SEPP.

Written Submissions

The Department received a total of 136 submissions addressing either the educational establishments or child care facility components, and often both. Most submissions expressed support for the introduction of improved planning provisions and the aims of the draft SEPP.

Respondents generally fell into one of the following groups: council, community, industry, peak bodies and state agencies.

The main issues relating to child care included:

- / objection to mandating centre based child care in IN2 Zones
- / concern regarding non-discretionary development standards in the SEPP, especially location (particularly in residential areas), site area, site coverage, and site dimensions and design
- / impact on neighbourhood amenity
- / uncertainty about the relationship between the Guideline and development control plans and application of the Child Care Planning Guideline under the SEPP

- / the need to manage supply
- / objections to allowing home-based child care as exempt development on bushfire prone land.

The main issues relating to educational establishments included concerns regarding the expansion of complying development provisions and associated issues, such as:

- / potential impacts from increased height and assessment of traffic issues
- / potential impacts of development upon heritage values, including Aboriginal cultural heritage, at schools and universities
- / education providers requested provisions within the draft SEPP to enable student accommodation
- / provisions regarding the issuing of site compatibility certificates
- / potential impacts to trees and native vegetation arising from development at schools
- / design quality requirements
- / the role of councils in assessing and determining school developments.

Social media

A social media campaign was carried out for the child care reforms which included both long and short forms of two videos. The short form versions were designed for Facebook and Twitter, whilst the long form videos were showcased on the Department's website on the SEPP page.

The objectives of the social media campaign were to:

- / increase awareness of the draft SEPP
- / drive traffic to the Department's website, specifically the SEPP page.

In total, the videos received more than one million views, with 284,608 instances of immediate follow-up engagement (i.e. clicking a related link or submitting feedback etc.). The most engaged demographics in the social media campaign were women aged 25-34 (43%) and women aged 35-44 (28%).

Table 2 - Summary of Social Media Engagement Results

Activity	Video One	Video Two	Total
Reach	326,703	701,219	1,027,922
Follow up action taken	124,800	159,808	284,608

Stakeholder Workshops

Child Care

An industry stakeholder workshop was held with a range of representatives of child care service providers on 1 March 2017. This was the final in a series of industry workshops held over the course of the child care policy development.

Educational Establishments

During the development of the proposed SEPP in a series of formal meetings with representatives from universities and the independent school sector. This included representatives from the Vice-Chancellors Committee, the Association of Independent Schools NSW, Catholic Education Commission NSW, Sydney Anglican Schools Corporation and NSW Islamic Schools.

2017

Draft State Environmental Planning Policy

***(Educational Establishments
and Child Care Facilities) 2017***

***Submissions Report
June 2017***



**Planning &
Environment**

June 2017

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Executive Summary

The Submissions Report examines the responses received during the public exhibition of the *draft State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017* (the draft SEPP) and provides a response to the issues raised.

The draft SEPP and related documents were placed on public exhibition from 4 February 2017 until 7 April 2017. The policy package is generally distinguished into Educational Establishments and Child Care Facilities. The Department of Planning and Environment (the Department) received a total of 136 submissions addressing either the Educational Establishment or Child Care Facility component of the documents and in many cases both. For ease of use and clarity this report has been structured to address the Educational Establishments and Child Care Facilities as separate sections.

The issues raised between categories of respondents (council, community, industry, peak bodies and state agencies) varied. Councils and the community focussed on amenity and built outcomes, whereas industry and peak bodies addressed the importance of flexibility. All respondent groups recognised the need for an efficient and effective planning framework facilitating development and preserving neighbourhood amenity.

Part A Educational Establishments

The responses to the education elements of the policy package were predominately from local councils and schools.

The provisions in the draft SEPP applying to educational establishments brings together planning provisions that are currently located in *State Environmental Planning Policy (Infrastructure) 2007*, *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and local environmental plans (LEP). The draft SEPP consolidates the planning provisions enabling a consistency in the applicable requirements, as well as an opportunity to modernise the applicable planning requirements in recognition of innovative approaches to delivery of educational services.

The responses to the education elements of the policy package were received from local councils, education providers, interest groups and community members. Overall, there was a high level of support for improvements to the planning provisions applying to educational facilities, however there were conflicting views on several key issues.

ISSUES

- / Concerns regarding the expansion of complying development provisions and associated issues, such as impacts from increased height and assessment of traffic issues
- / Impacts of development upon heritage values, including Aboriginal cultural heritage, at schools and universities
- / Lack of provisions within the draft SEPP regarding student accommodation
- / Provisions regarding the issuing of site compatibility certificates
- / Impacts upon trees and native vegetation arising from development at schools
- / Design quality requirements
- / The role of councils in assessing and determining school developments.

RESPONSE

The Department considered all submissions received and attempted to balance conflicting views on several key issues. The approach to the key issues raised is outlined below:

- / A primary focus of the draft SEPP is to expedite the provision of educational facilities and apply an appropriate level of assessment dependent on the scale and nature of development proposed. Additional development standards and requirements are proposed to mitigate the impacts of the increased complying development provisions, including greater setbacks from property boundaries, requirements for landscaping, application of the design quality principles and a process for assessment of the traffic impacts by the Roads and Maritime Services (RMS).
- / The draft SEPP will be amended to make specific reference to Aboriginal cultural heritage to ensure equal protection is provided.
- / Provisions relating to student accommodation will be amended to clarify that student accommodation is permissible within the boundaries of existing educational establishments, but will require development consent and will be subject to the provisions of the applicable LEP and development control plan (DCP).
- / The site compatibility certificate provisions have limited applicability as they can only be applied to State owned land (government schools and TAFEs) and are subject to a thorough consultation and assessment process before determination by the relevant planning panel.

- / Provisions in the draft SEPP have been amended to ensure that development at schools do not have an adverse impact on trees and native vegetation. This includes removing the ability to clear vegetation as part of constructing sporting fields as exempt development, clarifying that a qualified arborist must be used when declaring a tree to be unsafe and requiring a replacement tree for any unsafe tree removed under the exempt provisions, and clarifying that any tree required to be removed for complying development will be subject to the usual tree removal approval requirements.
- / The design quality principles have been amended to address certain concerns raised, including consideration for land located in areas mapped as scenic protection areas, clarifying that proponents must consider both Aboriginal and other built heritage, and an additional requirement for proponents to consider design measures for sites adjacent to busy road and rail corridors to ameliorate noise impacts.

There were also a number of issues raised that are beyond the scope of the draft SEPP. This includes provisions affecting the role of councils in the assessment and determination of development applications (DAs). Feedback on proposals to lower the threshold for local DAs to be determined by a planning panel in place of the local council, and a proposal to restrict the issue of complying development certificates to council certifiers only and not private certifiers were sought as part of the exhibition of the policy package. However, these proposals form part of broader updates to the planning legislation and not the draft SEPP, and all submissions raised in relation to these proposals will be considered by the Department.

Part B Child Care Facilities

The inclusion of Child Care Facilities in the draft SEPP coupled with the development of the accompanying *Child Care Planning Guideline* marks the first time that the national regulations for early childhood education and care facilities will be brought into the NSW planning system. There has been universal support for the policy reform in this area and the submissions addressed issues that further refined or fine tuned the policy to improve both application and outcomes.

ISSUES

- / objection to mandating centre based child care in IN2 Zones
- / non-discretionary development standards in the SEPP, especially location (particularly in residential areas), site area, site coverage, and site dimensions and design
- / impact on neighbourhood amenity
- / need for clarification as to the relationship between Guideline and DCPs and application of the *Child Care Planning Guideline*
- / need to manage supply
- / objection to allowing home-based child care as exempt development on bushfire prone land

Other issues included ensuring consistency in application of the SEPP on TAFE and university sites, managing land contamination when the land use is exempt development, the use of community facilities for out of school hours care and co-location of early childhood education facilities with community facilities and within zones, including special purposes zones, where community facilities are permissible.

RESPONSE

Having reviewed the issues raised in submissions the main responses are:

- / Removing centre-based child care as a mandated use in the Light Industrial IN2 zone
- / Making minor amendments to the non-discretionary development standards, which will otherwise be supported by residential amenity and overall considerations in the *Child Care Planning Guideline*
- / Re-drafting the SEPP and *Child Care Planning Guideline* to make the relationship between the Guideline and DCPs clearer
- / Making home-based child care complying development on bush fire prone land with standards agreed by the Rural Fire Service
- / Ensuring child care facilities, including out of school hours care, are treated equally within the SEPP on both university and TAFE sites
- / Excluding the use of hazardous lands for mobile child care and for emergency relocation of child care facilities.

There were issues outside what can be addressed within the NSW planning system. These include development standards above the National Regulations and seeking to directly influence supply by applying locational constraints.

The Department will monitor implementation to assess the success of the policies and identify areas for future review.



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Introduction

Policy Package

In February 2017, the NSW Government released its draft policy package for educational establishments and early childhood education and care facilities and services. Central to the package was draft *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. The draft SEPP was supported by a draft *Child Care Planning Guideline* and draft *Better Schools Design Guide*. In addition to the SEPP, changes were also proposed to the *Standard Instrument (Local Environmental Plans) Order 2006* and the introduction of a draft *Environmental Planning and Assessment Amendment (Schools) Regulation 2017*.

The draft SEPP aims to:

- / Simplify and standardise planning approval pathways for educational establishments and child care facilities (including allowing certain development as exempt and complying development)
- / Establish consistent State-wide assessment requirements and controls
- / Align the National Quality Framework for Early Childhood Education and Care Facilities with the NSW planning system.

The full package of documentation is available on the Department of Planning and Environment web site at <http://www.planning.nsw.gov.au/Policy-and-Legislation>

Purpose of the report

The draft SEPP and related documents were placed on public exhibition from 4 February 2017 until 7 April 2017. Some late submissions were received after 7 April which were also reviewed.

This report gives an overview of the written submissions received in response to the draft SEPP, analyses the key issues raised and provides a short response on how they may be addressed.

For the purposes of clarity in the summary and analysis, the report is structured as follows:

- / Introduction
- / Review of Submissions
- / Part A Education
- / Part B Child Care
- / Conclusion

Consultation Community and Stakeholder Engagement

The Department undertook an extensive community and stakeholder engagement process on the draft SEPP and related documents, including:

- / Public Exhibition and request for written submissions
- / Stakeholder Workshops with councils across NSW
- / On-line survey.

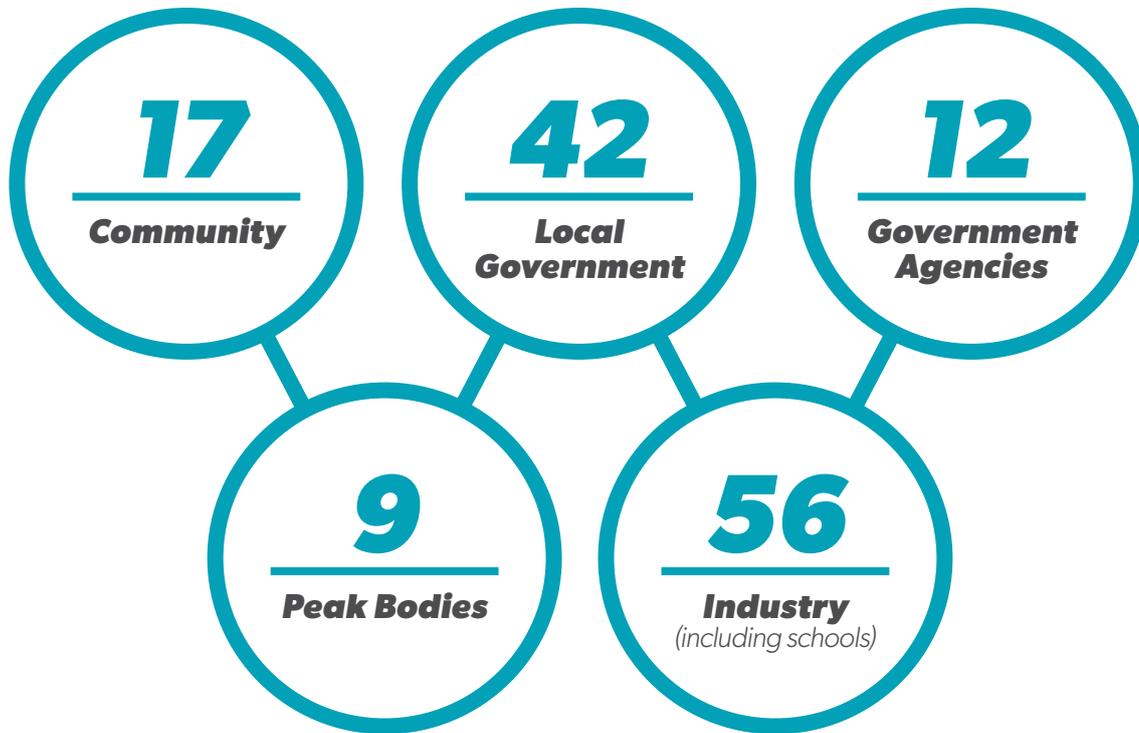
This report deals with the submissions received during the Public Exhibition process.

Public Exhibition

The public exhibition period was from 4 February 2017 until 7 April 2017, with all documentation on the Department's website.

Submissions overview

The Department received **136 formal submissions** to the reform package. The respondents were classified as:



Each submission was assigned an individual alphanumeric code and examined individually to understand the issues being raised. Initially the submissions were divided into education orientated responses, child care orientated responses or both. The content of each community submission was reviewed and categorised according to the key issues raised. This information was collated and presented as a summary in Part A Educational Establishments and Part B Child Care Facilities.

All the submissions are available on the Department web site at http://planspolicies.planning.nsw.gov.au/index.pl?action=view_job&job_id=8198.



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Review of Submissions

Part A Educational Establishments

A total of 136 submissions were received during the exhibition period of which 109 related to educational facilities in schools, universities and TAFEs.

The issues detailed in this report reflect the most significant matters raised or those that were most frequently mentioned. In addition to these key issues, there were many minor issues raised in submissions that have been considered and reflected in changes to the draft SEPP and have not been included in this report.

Submissions were received from individual respondents, community and environmental groups, councils and State agencies and peak bodies, as well as industry institutions such as universities and private schools.

Many council and community submissions reflected similar themes relating to potential impacts on neighbouring sites and in some cases, opposition to provisions that will allow more types of development to be carried out as complying development. This reflected an overarching concern that councils would no longer be able to apply local planning controls to certain school developments and that opportunities for the community to participate in development decisions were reduced.

There was some variation in responses, with some differences emerging between the positions and issues raised between councils, community and environmental groups and those of education providers and industry practitioners. Councils were opposed to the proposed complying development building height restrictions for schools, and site compatibility certificates, while these were supported by school and TAFE submissions. Concerns relating to potential impacts on heritage and Aboriginal cultural heritage as well as impacts on trees and vegetation were most often raised by councils, State agencies and community groups, whereas industry, including schools and universities, raised concerns that heritage controls were too restrictive.

There was general agreement amongst many respondents about concerns relating to the requirement for a traffic assessment issued by the Roads and Maritime Service (RMS). Most respondents also supported the Government Architect's *Design Guide for Schools* and Design Quality Principles, with many suggesting changes or additions.

The Department understands that the SEPP needs to provide a balanced outcome between conflicting views raised in submissions between industry (i.e. schools, universities and TAFEs etc.) and council and community and environmental groups. The NSW Government is responsible for delivering high-quality education infrastructure to ensure that every child has access to education and can provide a place for every child that presents to a public educational establishment. Many changes and proposals in the SEPP reflect this broader tension between the urgent demand to supply new educational facilities to meet the current and future needs of NSW students and the importance of sustainable, orderly growth in cities, towns and neighbourhoods.

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

The role of local councils

Issues Description

NSW faces the challenge of delivering new or upgraded educational establishments to accommodate an estimated 172,000 new students entering the school system by 2031. To meet this growing demand the draft SEPP proposes new provisions that enable a range of new educational building works to be carried out as complying and exempt development. The draft SEPP also proposes to lower existing thresholds in the *State Environmental Planning Policy (State and Regional Development) 2011*. This will cause all new schools, and significant alterations and additions to existing schools that have a project cost of more than \$20 million to be categorised as State Significant Development (SSD).

Many submissions expressed concerns about the reduced role of councils in assessing and approving the types of development included in the SEPP due to these new complying and exempt development provisions and threshold changes. Submissions also expressed concerns that legislative proposals (separate to the SEPP) in the *Environmental Planning and Assessment Amendment Bill 2017* will categorise developments comprising alterations and additions to existing schools with a project value of less than \$20 million that are not complying development as regional development. This will result in a greater share of applications to be determined by local planning panels and joint regional planning panels.

Response

The provisions in the draft SEPP elevate these larger school developments into State and regional assessment processes as the development of significant educational facilities involve broader impacts and benefits beyond the local community. This enables a region-wide perspective in decision-making and enhanced consistency that comes from having the same consent authority. This change will also ensure that SSD applications for new schools will follow a robust process that takes into account environmental, social and economic considerations, design quality principles and provides for community consultation.

Expansion of complying development

Issues Description

The draft SEPP proposes to permit universities to construct certain educational facilities as complying development. This will match existing provisions in the Infrastructure SEPP that already permit complying development on TAFE campuses for classrooms, libraries, lecture theatres, trade or training facilities and administration offices. The draft SEPP will also include new provisions to permit additional development types such as cafes, take away food and drink premises and recreation facilities as complying development on both TAFE and university campuses and schools.

Submissions from the community, environmental groups and councils were generally opposed to expanding complying development. This reflected broader concerns about parking and open space, impacts to neighbouring sites and reduced opportunities for community participation on these developments. Council and Local Government NSW submissions raised concerns about the new provisions that will enable universities to carry out new types of development (i.e. cafes and recreation facilities etc.) as complying development.

Response

The intention of expanding exempt and complying development provisions is to enable educational facilities to undertake developments that are typically expected at such sites. These developments can only be complying in circumstances where certain minimum development standards are met, including height restrictions, setbacks to boundaries and requirements for landscaping. Developments that do not meet the standards cannot proceed as complying development and will require a development application that will enable the usual merit assessment processes, including community participation opportunities.

Height of complying development for schools

Issues Description

The draft SEPP proposes to permit certain school buildings to be constructed as complying development up to a maximum height of four storeys or 22 metres. This only applies where the development meets certain requirements, including side and rear street setbacks, privacy and landscaping. Buildings that can be constructed as complying development include classrooms, libraries, administration offices, school halls and canteens.

Many submissions by councils raised concerns that the requirements that must be met under this provision are not sufficient to avoid potential impacts to neighbouring sites due to a lack of merit assessment. Many council submissions suggested that the proposal be changed to require that buildings comply with height limits set in local environmental plans, or at heights equivalent to buildings in the surrounding area. Other comments included that this provision should only be mandatory in metropolitan areas to avoid poor outcomes for smaller regional centres and rural areas.

Response

The proposal for new school buildings up to four storeys (or 22m) will allow additional classrooms and educational facilities to be installed in response to increased student numbers. Schools will have the flexibility they need to accommodate increased student numbers on limited land by building fit for purpose educational facilities such as auditoriums, classrooms, gymnasiums, halls and offices.

The draft SEPP provides for a range of safeguards to minimise impacts to surrounding areas and promote safe and well-designed education facilities, such as landscaping requirements, privacy and overshadowing of adjoining properties and minimum setbacks from the property boundaries of up to 10 metres. These developments will also require sign off from qualified designers if they exceed 12 metres, as well as the relevant roads authority if there are traffic implications. The draft SEPP also has a strong focus on design, including the *Design Guide for Schools* that has been developed by the Government Architect. A set of design quality principles will apply to complying development certificates for school buildings more than 12 metres in height. It is not considered necessary to limit application of the complying development provisions to metropolitan regions only, as these development standards will adequately protect the amenity of surrounding areas equally in both metropolitan and regional settings.

Traffic assessment for complying development

Issues Description

The draft SEPP proposed a requirement that applications for complying development certificates increasing student numbers by more than 50 students must be accompanied by traffic certificate from the Roads and Maritime Service. This will certify that the traffic impacts associated with the proposed development are acceptable, or can be made acceptable if certain works agreed to by the proponent and the RMS are carried out.

Many schools and councils commented on this proposal. A key concern was the potential for delays by RMS in issuing the traffic certificate, with many responses suggesting minimum time frames or allowing a non-RMS traffic consultant to issue the certificate. Another concern was introducing a role for the RMS in determining traffic impacts to local roads, which are currently the responsibility of local councils.

Response

The Department recognises that road and traffic safety outcomes resulting from development at schools is a significant issue. The RMS is developing administrative arrangements to streamline processes to ensure that traffic certificates are issued within a reasonable timeframe. As part of this process, the RMS will consult with local councils on complying development certificates when undertaking traffic assessments to ensure that important local issues are given proper consideration.

Potential impacts on heritage

Issues Description

The draft SEPP applies the current restriction in clause 1.17A of the Codes SEPP that complying development cannot be carried out on State or local heritage items. This restriction is in recognition that development affecting heritage items requires a greater level of assessment and consideration to protect its values. Private school and university submissions noted that most campuses and school grounds were unable to carry out complying development under the draft SEPP due to heritage restrictions applying to entire sites. These submissions requested that complying development provisions be allowed to apply to land that is currently subject to heritage restrictions. Universities also raised concerns that heritage restrictions relating to complying development provisions in the draft SEPP placed greater restrictions on university development than on school development.

Response

The Department understands the importance of protecting our heritage, and therefore does not propose to change the provisions relating to complying development on land that contains a heritage item. There is an existing mechanism in clause 1.17A of the Codes SEPP that will be replicated in the draft SEPP that permits complying development to be undertaken if an exemption under the Heritage Act has been sought and granted for specific sites or categories of work. It is considered that this mechanism provides flexibility for development at heritage sites, whilst maintaining an appropriate level of heritage protection.

Potential impacts on Aboriginal cultural heritage

Issues Description

The *Environmental Planning and Assessment Act 1979* provides for formal consideration of potential impacts of development on Aboriginal cultural heritage. However, many environmental planning instruments, including the draft SEPP do not explicitly capture protections for Aboriginal objects and declared Aboriginal places declared under the *National Parks and Wildlife Act 1974 (NPW Act)*. Submissions have noted the potential for negative impacts to Aboriginal objects and places from exempt and complying development.

Response

The Department recognises the importance of protecting and conserving Aboriginal cultural heritage. While complying development cannot be undertaken in areas of high Aboriginal cultural heritage significance, the Department agrees that amendments should be made to the draft SEPP to make clear that all existing protections on Aboriginal cultural heritage will be upheld. These changes will include:

- / Amending the definition of 'heritage item' to refer to Aboriginal objects and places as defined in the NPW Act.
- / Adding a subclause under Clause 19 (general conditions for complying development) addressing unexpected Aboriginal or heritage items discovered whilst undertaking works.
- / Amending Design Quality Principle 1 in Schedule 4 of the draft SEPP to ensure that proponents consider both Aboriginal and other built heritage when designing projects.

Student Accommodation

Issues Description

The draft SEPP clarifies that development for the purpose of an educational facility, that is a school, university or TAFE (Clauses 28, 38 and 46) does not comprise development for the purpose of student accommodation associated with the educational institution. Whilst student accommodation may occur on educational establishments, student accommodation is development for the purpose of housing and is a separately defined use. Therefore, the draft SEPP is not the delivery mechanism for student housing and instead the current pathways available in local environmental plans will continue to apply to student housing proposals.

While some council submissions support this approach, other submissions from planning consultants, universities and schools have requested that the provisions for exempt, complying and development without consent in the draft SEPP should also be available to university student accommodation and clauses 28 and 38 deleted. It was noted that development of student accommodation may not be a permissible use under certain local environmental plans where educational establishments are zoned as SP2 Infrastructure.

Response

Changes have been made to the draft SEPP to make student accommodation a form of development permitted with consent when located within the boundary of existing school grounds and university and TAFE campuses. This will allow an educational facility to build student accommodation on campuses that are zoned SP2 where the applicable local environmental plan prohibits housing, but will still require the lodgement of a development application and a merit assessment of the proposal.

The aim of the draft SEPP is to provide additional educational facilities, and therefore the provisions focus on the construction or upgrading of educational establishments and facilities. The Department considers that while accommodation for students is an ancillary facility offered by some educational establishments, the draft SEPP should not include additional standards for student housing development as this is not a core educational

use. These developments should be subject to the current standards in the applicable local environmental plan or development control plan.

Site Compatibility Certificates

Issues Description

Currently, existing school sites are zoned by local councils in their respective LEPs which has resulted in varied and inconsistent zoning of schools. To address this, the draft SEPP includes provisions for site compatibility certificates to facilitate more flexible use of school sites. The draft SEPP permits a public authority to apply for a site compatibility certificate to enable development that is permissible on adjoining land to occur on the state owned land. Consent must not be granted for development using these provisions unless a Sydney Planning Panel in the metropolitan area or a Joint Regional Planning Panel outside of Sydney has certified in a site compatibility certificate that the development is compatible with the surrounding land uses.

There have been many concerns and objections raised in submissions from the community, councils and Local Government NSW regarding school infrastructure being permitted in non-prescribed zones or adopting the zoning of adjoining land. Some submissions queried whether this provision would apply to child care centres. It was also requested that the draft SEPP clarify whether the certificate is valid for five years or other such period specified in a certificate up to a maximum of five years.

Response

Site compatibility certificates are only applicable to educational sites on State-owned land. As child care centres are private institutions, these provisions will not apply to those sites.

Changes have been made to Clause 13(9) to clarify that a certificate only has validity for a maximum of five years, or such other period specified in a certificate up to a maximum of five years. This aligns it with development consent periods and review timeframes for environmental planning instruments.

The Department understands the concerns regarding permitted state owned educational sites to adopt the land uses permissible on the

adjoining land without a rezoning process, which may result in the redevelopment of the educational site for other land uses and potentially the disposal of surplus government land. However, safeguard provisions have been included in the draft SEPP to ensure these provisions are applied only after a rigorous assessment process has been undertaken, including consultation with the community. The draft SEPP requires that a Sydney Planning Panel in the metropolitan area or a Joint Regional Planning Panel cannot grant consent for a site compatibility certificate unless it is satisfied that the development is compatible with the surrounding land uses. This includes consideration of whether the proposal is consistent with the applicable district plan.

Impact on trees and vegetation

Issues Description

The draft SEPP proposes that schools will be able to carry out certain tree removal as exempt development. This is limited to the removal of trees that are a risk to human safety or of damage to infrastructure (Clause 32(1)(b)), or the development of a sporting field that does not involve the clearing of more than 2 hectares of native vegetation (Clause 32(1)(g)).

While some school submissions support these provisions, many council submissions did not. Some submissions suggested that a Level 5 qualified arborist (as defined by the Australian Qualification Framework) should be required to assess the removal of hazardous trees and to require that any tree removed under Clause 32(1)(b) be replaced to ensure that there is not an overall reduction in trees. Many submissions, including from councils, the National Trust of Australia and environmental and community groups raised concerns about provisions enabling up to 2 hectares of native vegetation clearing as exempt development, as it could be used multiple times to clear land and does not represent 'minimal impact'.

Response

Changes have been made to the draft SEPP to include an additional provision to Clause 32 to require replacement plantings of trees that have been removed as exempt development to ensure that there is not an overall reduction in trees at the

site. To ensure that the removal of a tree is necessary, changes have been made to the draft SEPP to clarify that a Level 5 qualified arborist (as defined by the Australian Qualification Framework) is required to assess hazardous trees. The AQF defines this as someone who has a Diploma of Horticulture (Arboriculture) or a Diploma of Arboriculture.

Changes have also been made to delete the text 'the clearing of more than 2 hectares' from Clause 32(1) (g). This will ensure that if any vegetation is required to be cleared it will require a Tree Preservation Order (TPO) (for single tree removal) or a development application (for more extensive clearing of vegetation). This is to ensure that this provision enables the construction of sporting fields to occur only on land that is already cleared and not to be a method for clearing land.

Design quality principles

Issues Description

Design quality principles are included in Schedule 4 of the draft SEPP and will apply to the development of new schools or for complying development that is 12 metres or greater in height. The design principles will help to ensure that meeting the increased demand for new educational facilities will not compromise the quality of the services, or have a negative impact on surrounding communities.

Several stakeholders, particularly councils, were concerned that the design quality principles will be difficult to monitor and assess. This reflects the broader concern that the principles will not be able to be enforced and will become tokenistic. Some of these submissions propose that the design principles be amended to include more objective standards and greater levels of specificity, or that the standards be mandatory and broadened to apply to other types of development – including TAFEs and universities. Submissions also requested that the Department provide further guidance on how to determine whether the principles have been achieved.

Many submissions proposed amendments and additions to the principles. This includes new principles that cover scenic protection, Aboriginal cultural heritage and noise mitigation for schools located near busy roads, healthy lifestyles, the use of Australian native plants, biodiversity and ecological integrity, local heritage considerations, including Aboriginal culture, heritage and stewardship.

Response

The *Design Guide for Schools* provides explanatory text on how to apply the Design Quality Principles. Additional content will be added to the design guide in response to submission feedback to give greater clarity about assessing the principles and to provide advice on matters such as healthy lifestyles, the use of Australian native plants, biodiversity and ecological integrity. The intent of the design principles is not to require that specific criteria is met, but rather to provide the flexibility for a designer to carry out development of school infrastructure that responds appropriately to the character of the surrounding landscape and built environment. The draft SEPP has been amended to:

- / To ensure that developments are designed in a manner that protects the special qualities of land located in areas mapped in LEPs as scenic protection areas (including foreshore scenic protection areas)
- / Ensure that proponents consider both Aboriginal and other built heritage when designing projects (Principle 1).
- / Address concerns about development near busy road and rail corridors and the need for the proponent to design appropriate noise measures at the development application stage (Principle 5).

At this stage, the design quality principles and the Guide has been written specific to school development. However, consideration will be given in the future to prepare similar provisions applying to university and TAFE developments.

Part B Child Care Facilities

A total of 136 submissions were received during the exhibition period of which 92 related to the child care facilities aspect of the reform package.

The issues have varied depending on whether the respondent was a local council, industry representative, peak body or individual. Analysis is based on both the number of responses raising an issue as well as the justification provided in support of individual issues.

Given that the child care component of the policy package is entirely new to the NSW planning system, there has been a deliberate attempt to address all of the issues raised in submissions. In addition to the dominant issues addressed below, consideration has been given to the minor issues identified and many of these have been incorporated in the broader revision of the SEPP and *Child Care Planning Guidelines*.

The most frequently mentioned issue across local government, community and peak bodies was the potential impact on neighbourhood amenity, particularly with no mechanism to cap places and influence the size of individual centres in residential zones. The need to manage supply was the second most common response and many responses were a variation on these two issues.

An objection by several local councils to mandating centre based child care in IN2 Zones through an amendment to the Standard Instrument Local Environmental Plan was a recurrent theme. Several councils, peak bodies and industry objected to the non-discretionary development standards, especially location (particularly in residential areas), site area, site coverage, and site dimensions and design.

The need to provide greater clarification as to the relationship between Guideline and DCPs and objection to allowing home-based child care as exempt development in bushfire prone land were the other consistent responses.

Standard Instrument Local Environmental Plan

Centre-based child care in R2 and IN2 zones

Issues Description

The policy proposal includes an amendment to the Standard Instrument Local Environmental Plan (SILEP) to add centre-based child care as a mandatory use in the R2 Low Density Residential and IN2 Light Industrial zones. The response was mixed.

In relation to the IN2 zones, councils raised strong objection to mandating the use with only three (two metropolitan and one regional) explicitly stating that they have no objection to the inclusion. While some councils already include child care facilities as a permissible use, overwhelmingly concerns were raised in relation to the impact on both existing and proposed industrial uses. Conversely, industry supported the inclusion citing access to employment and flexibility as reasons.

Some councils argued that this approach is contradictory to directions on industrial land and industrial zones in the draft District Plans recently exhibited by the Greater Sydney Commission. Permitting child care centres in light industrial zones will quarantine surrounding land from future industrial uses.

The response to including centre-based child care in the R2 zone was contested predominantly in relation to removing controls on the number of places, over-supply of centres and impacts on the residential amenity and character.

Some community submissions were against the inclusion of centre-based child care in R2 zones claiming it would undermine the opportunity for local residents to be involved in the decision-making process. Land use conflict and the flow-on effects including greater demand for residential land and less scope for facilitating policies that promote housing affordability were also cited.

Generally, councils would support the inclusion of centre-based child care in the R2 zone if the draft SEPP and *Child Care Planning Guideline* provided a cap on the number of places and/or controls in relation to amenity issues such as traffic, noise and parking. Proximity to other centres and concerns about the potential for “mega” centres, allowing multiple centres in a single street and cumulative impacts of traffic and parking were highlighted.

Overall, there was general support for centre-based child care in the R2 zones. It is noted that the application of the R1 zone and the R2 zone varies between the Sydney Metropolitan area (for example Ku-ring-ai and Parramatta) where the R2 zone is applied to low density residential land with minimum lot sizes between 450 up to 600m², and the application of the R1 zone to land with similar characteristics in regional areas (for example Wagga Wagga and Dubbo).

Response

Light Industrial zones provide for a wide range of land uses, several of which would generally be considered compatible with child care facilities. However, the argument that child care facilities may quarantine future industrial uses is accepted. Given the strength of objection the Department will withdraw the proposal to mandate centre-based child care in the IN2 zone.

The *Child Care Planning Guideline* provides appropriate considerations for assessing impact of developments on residential amenity.

Definitions

Issue Description

In summary, the respondents raised issues seeking to clarify definitions:

- / Centre-based child care – inclusion of family day care service at (e) to then exclude buildings used for home-based or school based child care.
- / Home-based child care – family day care services and family day care residences. Confusion as to the definitions.
- / Community facilities – need better definition of community facilities.
- / Mobile child care – should be introduced into the SILEP.

The amendment to the Standard Instrument LEP and related planning instruments intend to create clear and consistent definitions for child care facilities in local environmental plans. Whilst supporting the intent, submitters found the draft definitions provided confusing.

Submissions from Industry stated that after school care located on a site other than a school should be addressed. To more accurately reflect this as a land use, a definition would be needed.

It was suggested that consideration needs to be given to the consistency amongst councils in relation to the interpretation of community facilities. It has been suggested that after-school care and centre-based child care should be allowed in certain special purposes zones.

Response

It is acknowledged that the definition of centre-based child care as drafted is confusing. It will be replaced by clearer wording.

Mobile child care is exempt development if it meets the set of pre-determined criteria in clause 25 of the draft SEPP. The inclusion of the term in the SEPP provides certainty for a low impact activity that currently fills a gap in the provision of a child care service, particularly in rural and remote areas.

Under the current planning framework, a centre-based child care use is not a community facility. A community facility is defined in the Standard Instrument Local Environmental Plan as follows:

“Community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”

Although centre-based child care may not fall within the definition of community facility, there may be opportunities to co-locate after-school hours care in existing community buildings if the zone does not prohibit the use.

Draft *State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017*

Application of the Child Care Planning Guideline (clause 21)

Issue description

Clause 21 of the draft SEPP calls on a consent authority to consider the *Child Care Planning Guideline* before determining a development application for centre-based child care. The application of and weight that the draft SEPP gives to the *Child Care Planning Guideline* was an issue raised across all the response categories.

The submissions related to the use of the term “may” in relation to the consideration of Part 3 of the *Child Care Planning Guideline*.

The responses vary. Some peak bodies, industry and councils stated that Part 3 should be a compliance requirement rather than a consideration, arguing that the term “may be considered” enables a proponent to claim that they are not relevant and therefore not address the matter in an application.

Individual council concerns included:

- / The statutory weight of the *Child Care Planning Guideline* needs to be more clearly represented.
- / The *Child Care Planning Guideline* introduces criteria not typically dealt with in a development application (Part 2) which may have an impact on the DA process in terms of timing and complexity. It was suggested that the guidelines be for applicants use only with a separate guide addressing council key planning issues.
- / “Integrated development” pathway requiring referral to the department for licensing could be considered.
- / There should be a “pre-approval” process whereby all applications are referred to the Department of Education prior to lodgement with council and it be the responsibility of that Department to assess compliance with the design criteria in the *Child Care Planning Guideline*.

Response

Clause 21 provides as follows:

“21 Centre-based child care—matters for consideration by consent authorities

The consent authority:

- (a) must take into consideration Part 2 of the *Child Care Planning Guideline*, and
- (b) may take into consideration Part 3 of the *Child Care Planning Guideline*,

before determining a development application for development for the purpose of centre-based child care.”

The *Child Care Planning Guideline* was prepared to introduce the physical environment requirements for early childhood education and care facilities from the National Quality Framework into the NSW planning system.

Part 2 provides guidance to the National Regulations and Quality Standard for early education and care services.

The consent authority must take this into consideration as ultimately compliance determines whether the facility can achieve a service approval.

Part 3 are the matters for consideration. Where there is inconsistency between this part and a council development control plan (DCP) the criteria in this part override the DCP.

It is acknowledged that further clarification is required about how clauses 21 and 24 interrelate and work together. The draft SEPP and the *Child Care Planning Guideline* will be reviewed to more clearly articulate the relationship and status of the guideline.

Clause 22 IN1 and IN2 zones – Additional matters for consideration

Issue description

Respondents raised issues as to a perceived inconsistency between clause 22 and the inclusion of centre-based child care as mandatory in the IN2 zone.

Response

Currently, a local council applying the IN1 or IN2 zone in an LEP will identify those land uses that are permissible and those that are prohibited. There are LEPs that permit child care centres as development permitted with consent in these zones. The clause has been drafted to ensure that additional matters are considered where an LEP makes such a provision.

Non-discretionary development standards (clause 23)

Issue Description

There were several submissions dealing with this issue across all response categories; council, community and industry. Where some councils broadly agreed with the inclusion of non-discretionary development standards many had specific concerns.

- a) Location – council, peak body and community submissions support the introduction of locational criteria as a mechanism to manage the cumulative impacts on neighbourhood amenity, character and traffic. Several responses from both councils and industry concerned the need to manage the proximity of centre-based child care within a local government area particularly in residential areas.

Transport for New South Wales requested an additional location requirement that development is not located on land with a direct access or boundary to a classified road.

- b) Indoor and outdoor space – unencumbered space was the least contested with some respondents suggesting that compliance be mandatory in certain circumstances.

The non-discretionary development standard relating to unencumbered indoor and outdoor open space triggers a referral to the Department of Education in circumstances of non-compliance. The referral time is within 7 days. Local government respondents raised concerns that this timeframe was unrealistic and proposed 14 days as an alternative.

- c) Site area, site coverage and site dimension – this was the most contested of the standards in clause 23. This clause removes the application of site coverage provisions which typically aim to preserve parts of a site for open space, such as a rear yard or a front setback. The respondents raised issues including; suitability of battle axe blocks, need for minimum frontage, need to introduce floor space ratios to maintain neighbourhood character particularly in residential areas, easement. It is noted that the issues tend towards amenity.

The clause conflicts with section 3B of the Guideline which requires setbacks and prevents a child care centre occupying any part of the site.

These setbacks minimise overshadowing and privacy impacts and help establish an appropriate building form in a street.

- d) Colour of buildings and materials – this was raised about local character and amenity by a few councils.
- e) Design – several respondents highlighted the inconsistency between Part 3 and clause 21. The drafting of clause 23 assumes that the site is for centre-base child care only and fails to consider the use as part of a mixed-use development where design excellence provisions award bonus floor space.

Response

- a) Location – Proximity does not typically qualify as a head of consideration in assessing developments because the underlying issue is about cumulative environmental impacts generated by the development. That can be dealt with on a site by site basis.

The issue of limiting access to main roads is addressed in the Planning Guideline.

- b) Indoor and Outdoor space – the unencumbered space requirements are determined by the National Quality Framework. A proponent may prepare an application that delivers more unencumbered space than required.
- c) Site area, site coverage and site dimension – Those site attributes such as cul-de-sacs, battle axe blocks and local roads with narrow carriageways, narrow or steeply sloping blocks may not be suitable for development. This can be determined on a site by site basis.

There will be minor revisions to the SEPP addressing some of these concerns raised.

- d) Colour of buildings and materials – Outside heritage conservation areas, colour alone is not a reasonable ground on which to refuse a development application and is a reasonable inclusion in the clause.
- e) Design – The inconsistency between Part 3 of the *Child Care Planning Guideline* and sub-clause 23(2)(e) is acknowledged. The subclause will be reviewed.

Development control plans (DCPs) (clause 24)

Issue description

Clause 24 triggers the discussion in relation to the merit of allowing councils to include a cap on the number of places in centre-based child care facilities, particularly in residential areas. Size of centres was raised as a contributing factor in neighbourhood character and residential amenity.

The restrictions on the use of DCP controls to encourage the provision of child care places for certain age groups were also contested.

There was support for the clause which operates to render ineffective certain standards and requirements in DCPs from industry. However, both councils and industry were split in terms of what should be controlled by individual councils in a DCP and what should stay in the draft SEPP and *Child Care Planning Guideline*. The following concerns were expressed that the autonomy of local councils to manage development will be reduced:

- / Councils will be less able to implement DCP controls that are area specific and assess the merits and/or need for individual proposals. This could result in poor development outcomes which do not best serve the community.
- / There is overlap between the matters council cannot use to refuse a child care proposal and the considerations for design excellence. If council is restricted from considering design related matters for the entire building it may not be able to award the floor space bonus.
- / Certain provisions in a DCP will not apply to centre-based child care if they are covered by the SEPP. Amongst other things, this will make redundant any DCP provision that requires applicants to submit operational or management plans or arrangements such as hours of operation. This could mean that centre-based child care can operate outside Council's restricted standard 7am to 7pm hours of operation.

- / Removes the ability to control the size and scale of development.
- / Doesn't allow consideration to be given to the existing supply/demand.
- / Does not allow council to address the need for child care places of the 0-3 age group where staff to child ratios are higher.
- / Councils will be unable to restrict the number of children, the age ratios, numbers of groupings in a centre. This will result in traffic, parking, and noise impacts as centres become larger and are located in residential areas. There was also concern about an increase in "mega" centres (150 plus places) and the impact on both the quality of care and cumulative environmental impacts on amenity and neighbourhood character.
- / A shortfall in supply for certain age groupings is cited as an impact of failing to allow councils to use need as a determining factor in the application process.

Response

Clarification will be provided regarding the statutory weight of the *Child Care Planning Guideline*.

Part 3 of the Child Care Planning Guideline provides the matters for consideration for development of centre-based child care facilities. Where there is inconsistency between these criteria and controls within a DCP applying to the same site, Part 3 of the *Child Care Planning Guideline* prevails.

Demand analysis informing development within the child care sector, would be more appropriately undertaken by the industry. In the Sydney, Metropolitan Area, for example, some families will prefer to seek care in proximity to where they work rather than where they live.

The clause will be redrafted.

Clause 25 mobile child care

Issue Description

The issues raised in relation to mobile child care are that it:

- / Requires a definition in the SILEP.
- / Requires consideration of additional criteria in relation to parking, access to sanitary facilities, site selection, hours of operation and number of places to protect amenity.

Attention was drawn to the reference in clause 25(2) noting that setbacks are generally an issue for a DCP rather than an LEP.

Concern was expressed from councils about allowing these exemptions on potentially hazardous sites, including flood prone land. Other issues have been raised concerning the need for a higher standard of assessment for child care facilities on contaminated land.

Response

Mobile child care currently operates to fill a gap in the provisions of child care typically in rural and remote areas. The use is low impact and requires a service approval from the regulator. The intention is to isolate this use from the wider definition of centre-based child care.

Prohibitions will be added addressing land contamination and other environmental hazards for mobile child care and emergency relocations of centre-based care facilities as exempt development.

Clause 26 Emergency relocation of early childhood education and care facility

Issue Description

Consideration of neighbourhood amenity impacts; noise, traffic and parking for temporary relocation.

Contamination should also be addressed in relation to temporary sites.

Response

Temporary relocation is only available in emergency circumstances, usually related to a form of natural catastrophe and will still require a service approval.

See note above about prohibitions and environmental hazards.

Home-based child care in bush fire prone areas

Issue description

Exempt development needs to comply with the *Building Code of Australia (BCA)*.

Compliance with section 100B of the *Rural Fires Act 1997* for home-based child care could be onerous.

Some councils support exemptions, however the majority who responded to this issue were concerned that evacuation of up to seven children by one adult would be difficult without adequate transportation.

Responsibility for on-going compliance would be problematic.

Response

The concerns raised about home-based child care as exempt development on bush fire prone land are accepted. Home-based child care on bushfire prone land will be made complying development subject to standards agreed by the Rural Fire Service.

Consistency on TAFE and University sites centre-base child care and out-of-school hours care

Issue Description

Universities are seeking the same treatment as TAFEs regarding provision of child care facilities on existing university sites.

Response

TAFEs and universities will be treated the same with respect to all child care facilities under the SEPP.

Draft Child Care Planning Guideline

The *Child Care Planning Guideline* (CCPG) was very well received with respondents congratulating the Department on the initiative and inclusion of the National Quality Framework as part of the up-front requirements in the approval process. There were several responses relating to the operation of the *Child Care Planning Guideline*. In general terms the following issues were raised:

- / Need to be clearer as to the purpose of the *Child Care Planning Guideline* and its relationship within the planning framework and assessment process.
- / Need to be consistent with the BCA requirements.
- / Specific requirements for fire safety in multi-storey buildings.
- / Need to make the language more authoritative.
- / Opportunity to include additional criteria for site selection.

The *Child Care Planning Guideline* includes Part 2 National Regulations and Quality Standards and Part 3 Matters for Consideration and Site Criteria. The Appendices provide a checklist tool for use by industry and council.

Feedback highlighting typographic corrections and wording was appreciated and the document has been reviewed having regard to these comments. As highlighted in the discussion of issues specific to the draft SEPP there was a view that the relationship between the SEPP and *Child Care Planning Guideline* and Council DCPs could be better expressed in the documents.

The specific matters raised in relation to the *Child Care Planning Guideline* are divided into Part 2 and Part 3 below.

CCPG Part 2 National Regulations and Quality Standards

Issue	Action
2.1 National Regulation & Quality Standards	
General Space Requirements This was raised by industry in relation to a concern that the standards are the prescribed minimum as required by the National Regulation, rather than taking the opportunity to prescribe a higher standard.	The intention of the CCPG is to provide all of the relevant standards in a single document that can be applied as a checklist for the proponent and council in the development process. The CCPG does not prevent a higher standard being applied.
2.7 Outdoor Environment	
Simulated outdoor environments There was concern raised as to the need for clarity around the circumstances in which simulated environments may be acceptable.	The CCPG states that simulated outdoor environments can be calculated when the site constraints restrict the provision of outdoor play. The section will be reviewed.
2.8 Fencing	
Fencing has been raised in relation to the minimum height, particularly adjoining residential areas in terms of visual impact	The provisions relating to Fencing will be reviewed.
2.10 Emergency and Evacuation	
Concerns raised as to the wording and application of this section. Needs to be addressed in the BCA.	The BCA can address child care in multi- storey buildings if it is raised through the appropriate review channels.

CCPG Part 3 Matters for Consideration and Design Criteria

Issue	Action
Siting the Development	
<p>Site Selection – Add a section into the <i>Child Care Planning Guideline</i> that addresses site selection</p> <p>Criteria could include:</p> <ul style="list-style-type: none"> / Good pedestrian connectivity and vehicular access. / Parking available on site. / Adjacent to open space. / Wide street frontage. / Sites close to business centres and public transport. <p>The development should be proportional to the surrounding built form.</p>	<p>The need for a section on site selection will be reviewed.</p>
3B Building Envelopes Height and Setbacks	
<p>Building height is determined by the LEP whereas setbacks are typically an issue in the DCP. This should be spelt out in both the SEPP and <i>Child Care Planning Guideline</i>.</p>	<p>The <i>Child Care Planning Guideline</i> makes reference to both the LEP and DCP.</p>
3F Pedestrian and Vehicle Access	
<p>Traffic Safety – all child care service related development applications include traffic and pedestrian safety measures to protect children and their parents/guardians from motor vehicle accidents.</p>	<p>The wording in relation to access will be reviewed to include traffic safety.</p>
3J Noise and Pollution	
<p>Noise was the most frequently raised issue in terms of Part 3, however, it was raised in the context of the noise from the centre rather than the outside noise as addressed in the <i>Child Care Planning Guidelines</i>.</p>	<p>Section 3J in relation to noise as an impact on residential amenity will be reviewed.</p>

Issue	Action
3L Car and Bicycle Parking	
<p>The respondents had differing views in relation to the application of parking rates as to whether these should be in the DCP or <i>Child Care Planning Guideline</i>:</p> <ul style="list-style-type: none"> / DCP controls in individual DCPs are arbitrary. / Should use RMS Guide to Traffic Generating development rates consistent with the application in the Land and Environment Court <p>Parking rates should be reduced where a site is proximate to public transport other than rail, for example bus stops.</p>	<p>Allowing councils to determine their own rates as part of a wider precinct or traffic study and address the local context will be reviewed.</p>

Other Issues

The following issues have been identified as non-specific in terms of the *Child Care Planning Guideline*, SEPP and SILEP.

Expansion of permissibility in other zones and co-location of facilities

Issue Description

Some submissions propose that the draft SEPP needs to expand the permissible zones for centre based child care in both RE2 Private Recreation zones and certain SP zones (Educational establishments, Places of Public Worship, Community Facilities and Seniors Housing) where community facilities are permitted under the land use table.

This approach would enable centre-based child care to be located along side other compatible uses in zones in which as a use in isolation it is prohibited.

Response

Special Purpose (SP) zones are use or purpose based and the Standard Instrument does not mandate uses other than for that purpose. The proposal to expand the permissibility of centre-based child care to these zones remains a matter for councils in their local environmental plans.

Private Recreation zones (RE2) are sufficiently flexible to allow councils to incorporate centre-based child care as a permissible use.

Permanent part-time use of community facilities for out of school hours care

Issue Description

Some submissions propose that out-of-school hours care be permitted on a permanent part time basis as exempt development where they occupy an existing community facility and no building works are required to accommodate the use.

Response

Part-time use of an existing community building for out of school hours care is permissible where the use is permissible. Permanent use of community facilities for out-of-school hours care may prevent other general and casual groups access to a public facility.

Use of Site Compatibility Certificates

Issue Description

The respondents suggest that site compatibility certificates could be used for adjoining land on which centre-based child care is permissible consistent with the educational establishments.

Response

The land area demands for centre-based child care, coupled with the broad application of the land use across most council LEPs render the use of site compatibility certificates both unnecessary and inappropriate for centre-based child care.

Supply and demand

Issue Description

Respondents from council, community, peak body and industry all raised concerns regarding supply. The issues included:

- / Recommend planning for areas of need and demand for child care and link this to Child Care Benefit (CCB) funding. CCB funded places could be allocated and linked to areas of demonstrated need, demand or growth.
- / The planning policy should require any future applications to demonstrate, by providing current, reliable data, that there is demand for the type of service for which approval is sought.
- / The Department explore other appropriate means to ensure there is sufficient demand for additional places as part of the approval process.
- / Demonstrate need or demand in the application process.
- / Need to address oversupply in the draft SEPP.
- / Development incentives for supply – the consideration of planning and regulatory incentives for development applications as well as service applications for child care whereby such services can be located in projected population.

Response

Supply is market driven and should be addressed by the industry, rather than the planning system.

Monitoring and Review

Issue Description

A number of submissions suggested a review period between 12 months to three years.

Response

The five years has been consistently adopted as a timeframe after which review of strategic planning documents across a range of planning policy areas and environmental planning instruments, strategies and plans should be reviewed.



3

Conclusion

The issues raised in submissions highlighted both the extent and diversity of stakeholders all of whom are supportive of a robust planning framework that delivers the best possible outcomes for the community, education and child care as well as government.

The SEPP will provide a balanced outcome between conflicting views raised in submissions between industry (i.e. Child care centre operators, schools, universities and TAFEs etc.) and council and community.

The Department has responded to the submissions by making several changes to policy, recognising the importance of balancing the demands for new facilities to meet the needs of a growing population and the importance of sustainable, orderly growth in cities, towns and neighbourhoods.





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