

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

*Explanation of Intended
Effect*

Reforms to the Educational Facilities and Early Childhood Education and Care Sector

This Explanation of Intended Effect (EIE) has been prepared under Section 38 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It is presented in six parts:

Part A: The Policy Framework

Part A provides an overview of the proposed policy framework developed for the educational and child care sector, including the proposed State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ('the proposed SEPP').

Part B: Early Childhood Education and Care Facilities

Part B outlines the policy rationale and the provisions in the proposed SEPP relating to early childhood education and care facilities. This section also outlines other elements of the policy package applying to childcare including proposed amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* to introduce new standard definitions and provisions that permit centre-based child care in more land use zones.

Part C: Schools

Part C outlines the policy rationale and the provisions in the proposed SEPP relating to schools. This section also outlines other elements of the policy package applying to schools, including:

- a proposed amendment to the *Environmental Planning and Assessment Regulation 2000* to prescribe non-government schools as public authorities, to require the RMS to assess the traffic impacts of complying schools development prior to the lodgment of an application for a complying development certificate (CDC), and to require complying schools development proposals to be verified by designers before a CDC can be issued; and
- an Environmental Assessment Code of Practice that applies to non-government schools when assessing and carrying out development without consent under clause 31 of the proposed SEPP.

Part D: Universities

Part D outlines the policy rationale and the provisions in the proposed SEPP relating to NSW universities.

Part E: TAFEs

Part E outlines the policy rationale and the provisions in the proposed SEPP relating to Technical and Further Education (TAFE) institutes and campuses.

Part F: Related amendments to other environmental planning instruments

Part F outlines changes made to other planning instruments as part of the policy package. They include amendments to the State Environmental Planning Policy (State and Regional Development) 2011 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), as well as consequential changes to the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP), and to local environmental plans.

The consequential changes to local environmental plans follow from proposed changes to certain definitions relating to child care in the Standard Instrument Local Environmental Plan (SI LEP) to be made under the proposed Standard Instrument (Local Environmental Plans) Amendment Order (No 2) 2016.

Part A: The Educational and Child Care Sector Policy Framework

NSW's education future - A better plan

Child care and education infrastructure lays the foundations for our children's learning from their earliest years through to their adult careers.

Access to quality child care and education is vital for the development of our children and for our economy. So too, our tertiary institutions play a crucial role in building an educated and skilled workforce to meet the growing demands of industry, provide improved employment opportunities and deliver strong economic growth for NSW.

NSW needs to invest in high quality and cost-effective early childhood care facilities, schools, TAFEs and universities to nurture young minds, educate and train our future leaders, innovators and skilled workforce, and to provide the best opportunities for our youth to achieve their life ambitions.

Need for change - Demand for quality child care and education

NSW is facing unprecedented growth with the population forecast to increase by 28% to almost ten million people by 2036. The number of children under five will climb 18 percent to over 600,000, and the total population under 15 years of age will grow by 23 per cent to more than 1.8 million. This growth is placing increasing pressure on our social infrastructure, including child care facilities and all levels of our education system.

Many families face difficulties in finding suitable child care arrangements, with access to long day care facilities being limited and costly. The Productivity Commission has estimated that approximately 165,000 parents in NSW would like to work, or work more hours, if they could access suitable, affordable child care. It is estimated that an additional 2,700 long day care centres would be required by 2036 in order to address shortages and meet projected demand.

Our schools are also under increasing pressure with an estimated 172,000 new students entering the public school system by 2031. To meet this demand NSW will need to build 15 new schools a year, and refurbish or replace a further one-third of school assets that will be in poor condition or worse by 2031. As the public system struggles to keep up, there will be increasing pressure on the private sector to assist in meeting this demand.

Tertiary institutions are also experiencing rapid increases in student numbers, with 44% of young people expected to hold a bachelor degree or higher by 2025 (up from 40% in 2015). Our universities and TAFES are renowned for offering world class qualifications, and are instrumental in providing a strong and growing base of skilled workers across a mix of diversified industries. We need these institutions to continue to be able to meet student demand, while still offering the best education within high quality facilities.

The vocational education and training sector, including TAFE, also contributes to a skilled workforce. As the mix and nature of industries shift both the skills required for jobs and the way people learn, TAFE NSW needs to be flexible to adapt and respond to these changes and successfully upskill and reskill workers. TAFE NSW will play a significant role in achieving NSW State Priorities is to boost apprenticeships by working with employers and Group Training Organisations.

While population growth, greater uptake of education services, and ageing infrastructure put pressure on existing facilities, delivering services of the highest quality will always be a priority for the State. Child care and education facilities should therefore be well-designed, appropriately located, fit for purpose, contribute to the amenity of the local neighbourhood and be worthy of our State's most important assets – our young people.

Meeting the challenges – Improving the planning system

The NSW Government recognises the growing demand across all sectors of our education and child care systems, and is proposing to introduce improvements to the planning framework regulating these developments.

The planning system is designed to balance development pressures against environmental, social and economic considerations, as well as the interests of the public. With further improvements, the planning system will be better-placed to respond to the increasing demand for child care and education services, while still delivering high-quality infrastructure and minimising adverse outcomes.

The NSW Government has announced proposed changes to the planning system to stimulate more child care services and reduce frustrating approval delays to deliver appropriately located and high quality early childhood education and care. Improvements to the planning system can also ease the pressure on delivering new public and private schools, and upgrading existing facilities, as well as assisting TAFEs and universities to upgrade their campuses to cater for the growing number of tertiary students.

Quality design will be a key focus of the proposed planning improvements to ensure that new educational infrastructure enhances communities, delivers greater energy efficiency and contributes to healthy lifestyles for children.

The proposed changes to the NSW planning system aim to ensure the right settings are in place to:

- offer suitable and affordable child care facilities,
- ensure that every child in NSW has access to high quality school facilities, and
- deliver world class tertiary institutions.

A major part of the policy package will be the proposed SEPP which will provide the over-arching planning framework. The proposed SEPP will be supported by amendments to the *Environmental Planning and Assessment Regulation 2000*, planning guidelines for child care, and development of a Code of Practice for non-Government schools when assessing and carrying out development without consent under the proposed SEPP, to ensure that good on-ground outcomes are achieved. A planning circular has also been prepared that provides guidance to applicants and consent authorities in relation to the effect of the proposed SEPP on any development consent conditions that cap student and staff numbers at schools. These documents are outlined in this EIE.

Proposed Education and Child Care SEPP

Currently, planning provisions for schools and tertiary institutions are covered in the Infrastructure SEPP, while early childhood education and care facilities are regulated through several instruments, including National regulations, state requirements, as well as localised provisions in Local Environmental Plans (LEPs) and Development Control Plans (DCPs).

The proposed SEPP will align physical environment requirements from the National Quality Framework for Early Childhood Education and Care Facilities into the NSW planning system for the first time.

The proposed SEPP will:

- simplify and standardise the approval process for child care facilities, schools, TAFEs and universities, including broadening the range of development that can be undertaken as exempt development and complying development,
- set out clear planning rules for these developments, including where they can be built, what development standards apply, and consultation requirements, and
- establish state-wide assessment requirements and design considerations to improve the quality of these facilities and to minimise impacts on surrounding areas.

General provisions of the proposed SEPP

Simplifying approval processes

The proposed SEPP provides a range of tools to assist child care and education providers in constructing new facilities and upgrading existing facilities:

- minor works such as landscaping, awnings, fences, and minor internal and external alterations can be done as exempt development,
- a range of new building works including classrooms, lecture theatres, libraries, halls, indoor recreational facilities and school-based child care facilities can be certified as complying development, and
- more significant development proposals will require development consent.

The proposed SEPP sets out where these different classes of development can be undertaken, what approval pathway should be followed, what level of assessment will be required for each proposal, and consultation requirements.

Ensuring design quality and safe and healthy environments

It is not intended that meeting the increased demand for these facilities will compromise the quality of the services they provide, or have a negative impact on surrounding communities. The proposed SEPP will therefore introduce guidelines and design requirements for child care facilities and schools to ensure that facilities are well-designed, appropriately located, and fit for purpose.

Well-designed child care centres and schools can provide high quality education environments that will support the learning needs of students, be welcoming and stimulating. There is growing appreciation of the significant role that good design can play in education environments, with increasing evidence that student learning outcomes are closely related to the quality of learning environments. Factors such as air quality, a combination of indoor and outdoor learning spaces, ventilation, natural lighting, thermal comfort and acoustic performance have been shown to have a profound impact on teacher well-being and student attentiveness, attendance and overall performance.

High quality educational facilities are a vital part of a healthy and thriving community and can provide an important civic place for meeting and exchange. School facilities that are engaging, distinctive and contextually responsive can build a sense of pride and ownership among students, teachers, and the broader community. The design principles in the proposed SEPP aim to ensure that the design of school infrastructure responds appropriately to the character of the area, landscape setting and surrounding built form to ensure that schools and school building are an integral part of the community.

Allowing for flexibility and multiple uses

The policy also recognises that there is a continuum in the provision of child care, education and community services. Many sites and facilities offer shared-services and co-locate with other sectors. Child care services are sometimes located on school grounds and university campuses; education facilities may provide after-hours and vacation care; early education and pre-school services might co-locate with primary schools; and TAFEs may share grounds and facilities with schools. Furthermore, many of these facilities allow the public to access their sites and buildings for broader community purposes.

The proposed SEPP provides a range of permissible and additional uses on sites, facilitates co-location where appropriate, and encourages flexibility, versatility and adaptability in the design of buildings and sites.

Providing new child care and education services can be costly and takes time. The proposed SEPP provides a solid framework for child care and education providers to optimise the use of their existing sites and facilities now, while planning for any future expansion, redevelopment or development of new sites to cater for projected demand into the future.

Key aspects of the SEPP by sector

Child care and early childhood education

For child care, the proposed SEPP represents the first time national regulations (under the National Quality Framework) for early childhood education and care facilities will be brought into the NSW planning system, and will provide up-front information on national and State development controls. The new concurrence role of the Department of Education will ensure that providers have greater certainty that constructed facilities will comply with national service approval requirements.

Part of the challenge for child care providers has been navigating the sheer volume of overlapping and conflicting standards, controls and planning regulations, imposed at the local, State and National levels.

The proposed SEPP will switch off some local planning controls that are inconsistent with the National regulations, and consolidate standards and other planning controls into one State-wide guideline.

Related amendments to LEPs will see centre-based child care facilities permissible on R2 Low Density Residential and IN2 Light Industrial zoned land, permitting child care facilities on an additional 15,700 hectares of land. To support these changes, the proposed SEPP will set out additional controls around child care developments in industrial zones to ensure there are no adverse impacts on the child care facility or surrounding land uses, including those related to health, safety or planning matters.

Public and private schools

For schools, the proposed SEPP has a major focus on delivering new facilities and upgrading existing facilities faster. With many schools facing overcrowding, and around one-third of existing schools rated as having satisfactory to poor conditions, the NSW Department of Education faces a significant task of maintaining over \$25 billion in school assets, while constructing a further 230 new schools by 2031 to meet projected demand.

The proposed SEPP will simplify the planning requirements for educational facilities across the State. These reforms will make it much easier for schools to implement a wide range of improvements and expansions to schools such as upgrading sports fields, replacing portable classrooms with permanent buildings, building a new library, and offering new or additional before and after school care in existing school buildings.

The proposed SEPP also introduces design quality principles that designers of school infrastructure will be required to address when designing new school facilities. These principles aim to ensure that new school buildings are designed with a high level of amenity and sustainability, that are responsive to the character of the surrounding locality, contribute to the amenity of the neighbourhood and that are welcoming, accessible and fit for purpose. Good design can achieve buildings and spaces that contribute to the quality of life for users, improve the delivery of public services, give a sense of identity and community and deliver value-for-money as well as better buildings, particularly when attention is paid to the full costs over a building's lifetime.

Of note, new school buildings up to four storeys (or 22m) in height, including classrooms, halls, offices, and other facilities, can be approved as complying development provided the relevant development standards are met rather than requiring a development application. Design quality principles will apply to school development to ensure that new school infrastructure achieves good design. For school developments 12m

in height or greater undertaken as complying development, a certifying authority must not issue a complying development certificate, unless they have been provided with a written statement by a qualified designer verifying that the design quality principles in the proposed SEPP have been achieved.

Ensuring that school developments deliver appropriate road and traffic safety outcomes is another key aspect of the proposed SEPP. Applications for complying development certificates for the purpose of a school where it is proposed to increase student numbers by more than 50 students will be required to be accompanied by a traffic certificate from the Roads and Maritime Service. The traffic certificate will need to certify that any impacts on the surrounding road network as a result of the proposed development are acceptable if specified requirements are met.

One option being considered as part of the reforms is that all applications for complying development certificates for school infrastructure be issued by council certifiers. This proposal would ensure that councils still have some oversight and involvement in the development of school infrastructure in their local area.

The proposed SEPP also recognises the importance of non-government schools in easing the burden on the public school system. For the first time, private schools will also be able to expand and upgrade school facilities using similar planning provisions as public authorities. This includes being able to build single storey classrooms, offices, libraries, kiosks, book shops, carparks, and various alterations and additions to existing buildings, as development without consent under the draft SEPP, using the same self-assessment process as government schools may currently do.

Importantly, an environmental assessment Code of Practice has been developed to monitor and regulate private school operators to ensure that these works are assessed and undertaken appropriately, and that any potential impacts of the development are identified and mitigated. The Code will also set out requirements for consulting with councils, neighbours and other interested parties on proposed private school developments.

In recognition of the importance of school infrastructure and the urgency in delivering more facilities, it is proposed to amend the *State Environmental Planning Policy (State and Regional Development) 2011* to classify all new schools (regardless of capital investment value) and all major expansions of existing schools that have a capital investment value of \$20 million or more as State significant development. This type of proposed development will be assessed and determined by the Minister for Planning.

It is also being considered that a further option could be to make a separate amendment to the EP&A Act to make the relevant planning panels the consent authority for all other development applications relating to schools. Elevating these proposals to the State level will allow for any related planning matters, including separate approvals that may be required from other agencies, to be addressed in a comprehensive and coordinated manner.

Proposed development that involves the expansion of existing schools is often restricted by existing cap conditions limiting student and staff numbers on a school site (cap conditions). These cap conditions are an important tool to manage traffic and parking impacts, but can be a major constraint on the growth of the school and the provision of essential school infrastructure. To ensure that these cap conditions are applied consistently and appropriately, a planning circular has been prepared providing best practice guidance to applicants and consent authorities.

Tertiary institutions

The proposed SEPP recognises the integral role played by TAFEs and universities in training and developing a strong, educated workforce, to support economic growth in NSW. The provisions of the proposed SEPP enable TAFEs and universities to expand and adapt their facilities in response to the growing number of

people seeking tertiary qualifications, and to maintain our reputation for providing world class tertiary education.

The proposed SEPP includes expanded provisions for tertiary institutions to undertake exempt development and other development without consent.

While TAFEs currently have access to complying development provisions, the proposed SEPP will also introduce complying development for existing university facilities for the first time. New university buildings up to three storeys, including lecture theatres, libraries, offices, laboratories, training facilities, can be approved through complying development certification, provided the development standards are met, rather than requiring a development application.

Tertiary institutions also operate as research centres, commercial businesses, online hubs, and specialist facilities in diverse fields of inquiry. This means that some education centres, such as metropolitan campuses, may suit a broad range of localities and land use zones. An amendment to the Codes SEPP will allow tertiary institutions to access the change of use provisions, to enable tertiary educational establishments to occupy commercial premises as complying development, provided that relevant development standards are met.

Part B: Early Childhood Education and Care Facilities

The proposed SEPP introduces physical environment requirements for early childhood education and care facilities from the National Quality Framework into the NSW planning system for the first time. The proposed changes will support the delivery of more, and higher quality child care services across NSW and reduce frustrating approval delays.

By aligning the National requirements with the NSW planning system, new child care facilities can be designed and built according to key national standards, giving developers, child care providers and the community more certainty.

The proposed changes deliver on recommendations from the 2014 Productivity Commission report into child care services and a 2015 NSW State election commitment.

National Quality Framework for Early Childhood Education and Care Facilities

The Australian Government's National Quality Framework consists of the *Children (Education and Care Services) National Law (NSW)*, the *Education and Care Services National Regulations* and the *National Quality Standards*. The National Quality Framework sets quality standards to improve education and care for the following child care services:

- long day care,
- family day care (including care provided in an educator's residence and care provided at a venue other than a residence),
- preschool, which may be standalone or where combined with a kindergarten at a school,
- outside school hours care situated on and off school sites.

NSW regulates the following child care services through the *Children (Education and Care Services) Supplementary Provisions Act 2011* and *Children (Education and Care Services) Supplementary Provisions Regulation 2012*:

- home based education and care services, where the care is provided by the educator as a 'sole trader',
- mobile education and care services, and
- centre-based occasional education and care service.

The National Quality Framework contains a range of controls which regulate children's education and safety, staffing, partnerships with families and the community as well as the physical environment and use of the child care facility.

Proposed changes to planning for Early Childhood Education and Care Facilities

The proposed Standard Instrument (LEP) Amendment Order will align National definitions of early childhood education and care services into the NSW planning system, by including new and updated definitions covering:

- early childhood education and care facilities,
- centre-based child care,
- school-based child care,
- home-based child care, and
- mobile child care

The proposed SEPP proposes to introduce the following planning controls for early childhood education and care facilities:

- contain strict planning controls, including:
 - a requirement to take the *Child Care Planning Guideline* into consideration when assessing development applications,

- the grounds on which a development application for a centre-based child care cannot be refused by a consent authority (for example, the proximity of a facility to an existing one),
- heads of consideration to protect the health and safety of children and centre staff in industrial areas
- provide a concurrence role for the Department of Education to review development applications that do not meet key national requirements for unencumbered indoor and outdoor space for children,
- permit mobile child care, home-based child care and school-based child care (as long as no works are required on the school site) to be considered as exempt development,
- permit works for school-based child care to be considered as complying development, and
- permit the emergency or temporary relocation of early childhood education and care facilities, for up to 12 months, as exempt development.

To support the changes, an amendment to the Codes SEPP is proposed. The amendment will permit home-based child care as exempt development on all land, by removing the current restriction on bushfire prone land subject to strict fire safety development standards.

An amendment to the *Standard Instrument (Local Environmental Plans) Order 2006* is also proposed which will provide clarity and certainty by removing ambiguous and obsolete definitions, creating new definitions to enable expanded approval pathways, and adding to the scope of zones where centre-based child care may be permitted. The amendment will:

- amend and introduce planning definitions for a range of early childhood education and care services, including:
 - early childhood education and care facilities,
 - centre-based child care,
 - school-based child care, and
 - home-based child care
- update all environmental planning instruments to incorporate the updated and new definitions, and
- permit centre-based child care with development consent in all R2 Low Density Residential and IN2 Light Industrial zones, providing greater flexibility for child care centres in areas close to homes and jobs.

A consequence of the amendment will be to permit 'respite day care' in the same zones as 'centre-based child care', in accordance with the *Standard Instrument (Local Environmental Plans) Order 2006* requirements.

New definitions and types of development affected

New definitions for early childhood education and care facilities will be introduced into the proposed SEPP and *Standard Instrument (Local Environmental Plans) Order 2006*. These definitions align with services regulated under the National Quality Framework and more appropriately reflect the range of development types that are occurring. It will also allow different approval paths for different types of child care facilities. The proposed definitions can be found in Table 1.

Table 1: Types of development and definitions

New Definition	Type of service
Early childhood education and care facility	Group term which collectively covers home-based child care, school-based child care and centre-based child care.
Centre-based child care	A building or place used for early childhood education and care, such as long day care, occasional care, out-of-school-hours care not located on a non-school site, a preschool, family day care not carried out in an educator's residence, or a combination of any of the above.
Home-based child care	Early education and care for up to 7 children under the age of 13 years provided by a person in their home. Includes home based care regulated under the NSW State Supplementary Provisions and family day care carried out in an educator's residence regulated under the National Law and Regulations.
School-based child care	Early childhood education and care service for school children on a school site which includes out of school hours care and vacation care.
Mobile child care	Early education and care service that visits a premises, area or place for the purposes of providing child care.
Temporary relocation of an early childhood education and care facility	The relocation of an early childhood education and care facility due to an emergency that threatens the safety of the facility and its occupants (such as bushfire, flood, storm and the like).

The amendments propose that the group term “early education and care facility” be introduced to refer collectively to the three main types of child care facilities defined in the Standard Instrument Order – home-based child care, school-based child care and centre-based child care.

It is proposed that current references to “child care centre” be replaced with “centre-based child care,” covering a broad range of centre-based child care facilities. The new definition excludes care occurring on school sites but includes family day care provided at venues other than the educator's residence.

It is proposed that “school-based child care” be separately defined to enable the creation of a specific approval pathway for services and related developments on school sites. School-based child care on school sites is integral to the operation of the school and has a lower risk of environmental impact making it more appropriate for faster development approval pathways. It encourages shared use of facilities, facilitating a sustainable and optimal approach to investing in school infrastructure and development.

New definitions will be included in the proposed SEPP which will enable mobile child care and the temporary relocation of an early childhood education and care facility in emergency situations to be undertaken as exempt development.

The new definitions will enable certain child care facilities to proceed through different approval pathways. This will enable low impact developments to be fast-tracked through the planning approval systems. The approval paths will be designated through the proposed SEPP.

Provisions to simplify planning approvals

The proposed SEPP proposes to simplify planning approvals by introducing exempt and complying development provisions for child care facilities with low amenity impacts. The approval pathways proposed in the proposed SEPP are set out in Table 2 below.

Table 2: Proposed approval pathways

Exempt development	Complying development	Local development	Integrated development
<ul style="list-style-type: none"> • Mobile child care • School-based child care without works • Temporary relocation of services due to emergency • Home-based child care on bushfire prone land • (Note: all other home-based child care is already exempt development) 	<ul style="list-style-type: none"> • New development for school-based child care • Minor alterations and additions • Centre based child care on TAFE sites 	<ul style="list-style-type: none"> • All other Centre-based child care 	<ul style="list-style-type: none"> • s91 EP&A Act • (Unchanged)

The proposed SEPP will not affect the existing integrated development provisions of the EP&A Act for early childhood education and care developments on land affected by the *Heritage Act 1977*, *Mine Subsidence Compensation Act 1961*, or the *Rural Fires Act 1997*, with the exception of exempt home-based child care on bushfire prone land.

Exempt Development

It is proposed that certain low impact child care developments may be permitted as exempt development under the proposed SEPP and an amendment to the Codes SEPP:

- home-based child care,
- school-based child care, as long as no works are required,
- mobile child care, and
- emergency or temporary relocation of child care facilities.

Home-based child care on bushfire prone land

Home-based child care is to be defined as:

- a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*), or
- a dwelling used for the purposes of a home based education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*),

Home-based child care is currently exempt development under Codes SEPP, except on bushfire prone land.

The proposed SEPP will amend the Codes SEPP by introducing development standards which will allow home-based child care on bushfire prone land as exempt development where certain standards are met.

The proposed standards are designed to ensure occupants' safety in the event of bush fires, and include:

- provision of an Asset Protection Zone around the dwelling;
- preparation of a Bush Fire Emergency Management and Evacuation Plan; and
- the dwelling in which the care is provided must not be located in bushfire attack level-40 (BAL-40) or the flame zone (BAL-FZ) land.

Prior to operating a home-based child care service, a Service Approval must be obtained from the Department of Education to ensure the safety of children cared for in the dwelling.

School-based child care, as long as no works are required

School-based care is to be defined as a building or place within a school that is used to provide out-of-school-hours care (including vacation care) for school children.

The proposed SEPP includes provisions to allow school-based child care as exempt development, as long as no building works are required to deliver the service. That is, where the service (or use) can be accommodated within existing on-site premises and facilities, the use does not require development consent provided certain standards are met.

Prior to operating a school-based child care service, a Service Approval must be obtained from the Department of Education.

Mobile child care

Mobile child care is to be defined as an education and child care service that visits a premises, area or place for the purpose of providing child care.

The proposed SEPP includes provisions that permit mobile child care as exempt development. A development application to council for a mobile child care service is not required.

Providers seeking to operate mobile child care service must obtain the consent of the landowner for the land on which the service is to be provided. Prior to operating a mobile child care service, a Service Approval must be obtained from the Department of Education.

Emergency or temporary relocation of child care

Emergency or temporary relocation is to be defined as the relocation of an early childhood education and care facility due to an emergency (including an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, terrorist act, accident, epidemic or warlike action) which endangers, or threatens to endanger, the safety or health of persons, or destroys or damages, or threatens to destroy or damage, the facility).

The proposed SEPP will also allow the temporary relocation of child care facilities due to an emergency situation or in advance of an imminent emergency to be undertaken as exempt development. Temporary relocation is permitted for a period of 12 months following the issue of a Service Approval from the Department of Education for the temporary facility.

The intent of this provision is to allow a child care service to continue to operate following an emergency situation (or in advance of an imminent emergency).

Landowner consent is required for the temporary relocation of a child care. Prior to commencing operations in a temporary facility, a Service Approval must be obtained from the Department of Education. The 12 month temporary relocation provision will start from the date the day the new Service Approval is issued.

Complying Development

Certain straightforward developments will be permitted within school grounds as complying development where development is required to accommodate school-based child care services. These developments are determined through a fast track assessment process by an accredited certifier to determine if they meet pre-determined development standards.

New development for school-based child care

The proposed SEPP will permit new building works as complying development, where works are required to accommodate the school-based child care on a school site.

School-based child care with new development will only be complying development if:

- it is within the boundaries of an existing school and on land that is not on bush fire prone;
- the existing school is operating as a lawful use and is not an existing use within the meaning of section 106 of the EP&A Act;
- it meets the requirements for complying development in clause 1.17A of the Codes SEPP (e.g. it is not a heritage item); and
- it does not contravene any existing conditions of a development consent (other than a complying development certificate) that may apply 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.

It is proposed that school-based child care will be allowed to operate from 7.00 am to 7.00 pm, Monday to Friday, on a school site, if complying development approval is granted.

Prior to operating a school-based child care service, a Service Approval must be obtained from the Department of Education.

Local Development

The proposed SEPP requires all centre-based child care developments to be assessed through the local development application (DA) process. This means that a development application for a centre-based child care facility will be assessed by a consent authority, usually a council.

Centre-based child care

Centre-based child care is to be defined as a building or place used for the education and care of children that provides any one or more of the following:

- a) long day care,
- b) occasional child care,
- c) out-of-school-hours care (including vacation care),
- d) preschool care,
- e) a family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)),

but does not include:

- f) a building or place used for home-based child care or school-based child care, or
- g) an office of a family day care service, or

- h) a babysitting, playgroup or child-minding service that is organized informally by the parents of the children concerned, or
- i) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- j) a service that is concerned primarily with the provision of private tutoring, or lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
- k) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

Centre-based child care facilities permitted with consent will require a development application to council, consistent with current practices. Centre-based child care facilities must be designed in accordance with the physical environment requirements of the National Quality Framework, as outlined in the *Child Care Planning Guideline* and required by the proposed SEPP. The environmental, amenity and design matters in the draft *Child Care Planning Guideline* may be considered as matters for consideration as provided for in the proposed SEPP.

Development applications that do not meet the National Quality Framework's unencumbered indoor and outdoor space controls will require the concurrence of the Secretary of the Department of Education before the application can be determined.

Prior to operating a centre-based child care service, a Service Approval must be obtained from the Department of Education.

Other Policy Changes

Expanding opportunities for child care in NSW - Permissible zones

The proposed amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* will create more opportunities to locate child care facilities closer to homes and jobs by permitting centre-based child care with development consent on land zoned:

- R2 Low Density Residential, and
- IN2 Light Industrial

All but six Local Environmental Plans across NSW permit child care centres in the R2 Low Density Residential zones. One-third of LEPs across NSW permit child care centres in IN2 Light Industrial zones. The proposed amendments to the R2 Low Density Residential and IN2 Light Industrial land use tables will align all LEPs across NSW, delivering a consistent approach and increase the land area available for centre-based child care development.

Heads of consideration for centre-based child care on industrial-zoned land

The proposed SEPP contains special provisions that must be considered when a centre-based child care facility is proposed on IN1 General Industrial or IN2 Light Industrial zoned land. These provisions are designed to minimise the risk of land use conflicts and ensure the safety and health of children, staff and visitors.

The proposed provisions require that the consent authority considers the following matters when determining a development application for centre-based child care in an IN1 General Industry or IN2 Light Industry zone:

- whether the proposed development is compatible with neighbouring land uses, including its proximity to hazardous land uses or restricted or sex service premises;
- whether the proposed development has the potential to restrict the operation of existing industrial land uses; and
- whether the location of the proposed development will pose a health or safety risk to children, staff or visitors.

Concurrence of the Department of Education

A concurrence mechanism is proposed to ensure that development proposals are compatible with key requirements of the National Quality Framework. The primary aim is to overcome the current situation where constructed facilities may require modification after completion in order to meet the National Quality Framework requirements.

Clauses 107 and 108 of the *Education and Care Services National Regulations* contains strict space requirements for child care facilities that must be met:

- at least 3.25m² of unencumbered indoor space must be provided for each child; and
- at least 7.0m² of unencumbered outdoor space must be provided for each child.

Development applications that do not comply with the unencumbered indoor and outdoor space requirements will require the concurrence of the Regulatory Authority. Currently, the Regulatory Authority is the Secretary of the Department of Education. The Secretary will have 28 days in which to respond to the concurrence request. If no response is received, the consent authority may proceed to determine the application.

The Regulatory Authority will have the opportunity to give valuable input about whether the proposal should be developed in its proposed form; whether the provider may later need to apply for a service waiver and if this would be supported; or whether the proposal should be redesigned as an alternate solution. It will protect developers from constructing buildings that cannot meet the National Quality Standards.

Non-discretionary development standards

The proposed SEPP includes non-discretionary standards for centre-based child care. This means that a development application for a centre-based child care cannot be refused by a consent authority on the following grounds:

- location – the development may be located at any distance from an existing or proposed early childhood and education and care facility;
- indoor or outdoor space – the unencumbered area of indoor space and the unencumbered area of outdoor space for the development must comply with the requirements of clauses 107 (Space requirements—indoor space) and 108 (Space requirements—outdoor space) of the *Education and Care Services National Regulations* (or the space requirements under clause 28 of the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* if it is a State regulated education and care service);
- design – if the development satisfies the design criteria in the *Child Care Planning Guideline*;
- site area, site coverage and site dimensions – the development may be located on a site of any size, cover any part of the site, and have any length of street frontage or allotment depth; and
- colour of building materials or shade structures – the development may be of any colour or colour scheme, except where the development is a heritage item or in a heritage conservation area.

The proposed change will ensure that future centre-based child care development can meet the intent and requirements of the National Quality Framework and provide consistent State-wide controls.

Controls in a Development Control Plan

The proposed SEPP makes clear that certain matters contained in Development Control Plans does not apply to development for the purpose of centre-based child care. This is to ensure that any Development Control Plan does not contain requirements that exceed those within the National Quality Framework or that are onerous.

The proposed provision disapplies the following matters in any Development Control Plan controls to proposed development for the purpose of centre-based child care:

- numbers of children
- age ratios of children
- compliance with the Building Code of Australia;
- glazed areas (windows);
- operational or management plans or arrangements;
- demonstrated need or demand for child care services;
- proximity of facility to other early childhood education and care facilities;
- fencing;
- laundry and hygiene facilities;
- space requirements—indoor space;
- space requirements—outdoor space (including natural environment and shade);
- toilet and hygiene facilities;
- ventilation and natural light;
- administrative space;
- nappy change facilities; and
- any matter provided for in the *Child Care Planning Guideline*.

The majority of these provisions are matters that are regulated by the National Quality Framework. Explanations on how to meet the intent of the National Quality Framework are contained in the draft *Child Care Planning Guideline*.

Assessment of development applications for centre-based child care

Development applications for centre-based child care, will be subject to controls as set out in the proposed SEPP and associated draft *Child Care Planning Guideline*.

The proposed *Child Care Planning Guideline* supplements the proposed SEPP, and sets out planning and design requirements for centre-based child care. The Guideline is consistent with the regulatory intent of the National Quality Framework.

The proposed SEPP states that Part 2 of the draft *Child Care Planning Guideline* must be considered, and Part 3 may be considered, when assessing development applications for centre-based child care. These provisions will ensure that these development proposals are assessed against consistent criteria through NSW. These new provisions will ensure that a building is fit for a service approval under the National Law, prior to it being approved and built.

Part C: Schools

Planning controls for schools currently exist in Division 3 of the Infrastructure SEPP. These provisions will be repealed from the Infrastructure SEPP and transferred into the proposed SEPP. Additional provisions are also proposed in order to assist in the delivery of essential school infrastructure.

The intended effect of the provisions in the proposed SEPP are outlined below.

Exempt Development

The exempt development provisions for schools are intended to enable minor works to be undertaken within school grounds without planning approval provided that certain development standards are met.

The types of low impact developments that will be permitted as exempt development include:

- one storey portable classrooms
- out of school hours care for primary school aged children provided in existing buildings
- removal of trees if they pose a risk to safety or damage to infrastructure
- landscaping and environmental management works
- play equipment, sporting fields and courts
- routine maintenance works
- walking paths, seats, shelters and shade structures
- information boards and way finding signage
- amenities building
- demolition of certain development that is not a heritage item or in a heritage conservation area.

The development standards applicable to these development types are listed in clause 32 of the proposed SEPP.

Complying Development

Straightforward developments will be permitted within school grounds as complying development to enable additional classrooms and educational facilities to be installed rapidly in response to increased student numbers. These developments are determined through a fast track assessment process by an accredited certifier to determine if they meet pre-determined development standards.

The types of complying development proposed to be permitted within the boundaries of an existing school include:

- construction of buildings for educational uses such as classrooms, a library, administration, school hall, gymnasium, canteen or a child care facility
- a covered outdoor learning area
- a car park
- demolition of a buildings that have an area no greater than 250 square metres
- minor alterations or additions to existing buildings
- restoration, replacement or repair of damaged facilities.

The development standards applicable to these development types are listed in Schedule 2 of the proposed SEPP and will include those listed in Table 3 below.

Table 3

Height	Maximum 4 storeys and 22m
Setbacks	<ul style="list-style-type: none"> • at least 5m from any side or rear boundary of the land where it adjoins residential zoned land, and 1m where it adjoins all other land use zones for buildings with a height up to 12m; • at least 8m from any side or rear boundary of the land where it adjoins residential zoned land, and 2.5m where it adjoins all other land use zones for buildings with a height up to 15m; • at least 10m from any side or rear boundary of the land where it adjoins residential zoned land, and 4m where it adjoins all other land use zones for buildings with a height up to 22m.
Materials	External walls must be constructed of non-reflective materials
Overshadowing	Proposed school buildings must not reduce the solar access to habitable rooms and private open space of adjoining residential properties to less than 3 hours between 9am and 3pm on the winter solstice
Privacy	Windows must be designed or treated to preserve the privacy of adjoining residential dwellings.
Landscaping	An area 3m wide along the property is to be landscaped with planting that will achieve a mature height of at least 3m and consist of species that are not likely to pose a health or safety risk.

Other development standards relating to waste, earthworks, tree removal, drainage and development on bush fire prone land and flood prone land are also included in Schedule 2 of the proposed SEPP.

Ensuring that development undertaken as complying development delivers high quality and well-designed facilities is a key concern. A certifying authority must not issue a complying development certificate unless they have been provided with a written statement by a qualified designer verifying that school buildings that are more than 12 metres in height achieve the design quality principles contained in Schedule 4 of the proposed SEPP.

The road and traffic safety outcomes resulting from development at schools is a significant issue. Certain complying development that proposes to increase student numbers by more than 50 students will be required to be referred to the Roads and Maritime Service for certification that the traffic impacts on the surrounding road network arising from the proposed development are acceptable or will be acceptable if specified requirements are met. This certificate will be required to be submitted with an application for complying development.

Development Without Consent

Certain small scale developments will be permitted without a development consent from a consent authority, but will require the person carrying out the development to undertake environmental assessment of the likely impacts of the proposed activity in accordance with Part 5 of the EP&A Act.

The types of development that will be permitted to be carried out without consent in connection with existing schools include:

- one storey buildings for school purposes such as a library, administration, a classroom, a tuckshop, cafeteria or bookshop
- a car park that is not more than one storey high,

- an outdoor learning or play area and associated awnings or canopies,
- minor alterations or additions, such as internal fitouts, or to address occupational health and safety requirements or to provide access for people with a disability,
- restoration, replacement or repair of damaged facilities,
- demolition of buildings or structures.

Developments undertaken without consent will only allow for minor expansions of schools. The provisions will permit development that will not allow for an increase in the numbers of student and staff numbers at the existing school that is greater than 10% of the numbers at the site during the previous 12 months. Development undertaken without consent also cannot contravene any existing condition of a 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.

Non-government schools will be prescribed as public authorities to enable them to carry out these developments without consent using the same process as currently used by public schools. An amendment to the *Environmental Planning and Assessment Regulation 2000* will be made to prescribe non-government schools as public authorities for the purpose of carrying out development without consent under clause 30 of the proposed SEPP to enable this as the existing legislative provisions currently only permit public authorities to access development without consent provisions.

To support this amendment, a draft Environmental Assessment Code of Practice has been developed to regulate how non-government schools must carry out the environmental assessment and determination of activities permitted without consent by the proposed SEPP. The draft Code outlines the assessment and documentation requirements, and requirements for community consultation. Compliance with the mandatory requirements in the Code will be a requirement under the EP&A Act and EP&A Regulation, and the Department of Planning and Environment can undertake compliance action regarding certain breaches of the Code.

Development Permitted With Consent

School development that is not exempt development, complying development or permitted without consent will require development consent before the development can take place. The consent authority that gives this development consent varies depending on the size and nature of the proposed development.

State Significant Development

All new schools, and significant alterations and additions to existing schools that have a project cost of more than \$20 million are proposed to be categorised as State Significant Development (SSD). The existing threshold of \$30m capital investment value of development for the purposes of educational facilities to be classified for SSD in Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* will be amended.

SSD applications are lodged with the Department of Planning and Environment for assessment, including consultation with the community. The Minister for Planning is the consent authority for SSD applications, although this may be delegated to Department staff, or the Planning and Assessment Commission.

To provide flexibility to accommodate the built form requirements of schools, the proposed SEPP will enable the consent authority to grant development consent even if a development does not comply with development standards such as height and floor space ratios contained in local environmental plans. The applicant will be required to justify the departure from the development standards and demonstrate that there are sufficient environmental planning grounds to support the contravention.

The proposed SEPP lists seven design quality principles in Schedule 4 that apply to schools to ensure that school infrastructure is well designed and responsive to its purpose and location. The consent authority is required to take into consideration the design quality of a proposed development in accordance with these design quality principles before determining a SSD application for school development.

Regional Development

Separate amendments to the EP&A Act are also being considered to provide that developments comprising alterations and additions to existing schools with a project value of less than \$20 million that are not complying development will be categorised as regional development. Applications for regional development are lodged with the local council for assessment and community consultation, but are determined by the relevant Joint Regional Planning Panel (regional panel).

The JRRP would also be required to consider the design quality principles before a determining a regional development application for schools.

Caps on Development Consents

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 proposed 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.

A planning circular has been prepared outlining 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.

Zoning of School Sites

Existing school sites are zoned by local councils in their respective Local Environmental Plans. This approach has resulted in varied and inconsistent zoning of schools, and in some cases there are schools with zonings that do not permit educational facilities which can restrict expansion and redevelopment of the school.

To address this, the proposed SEPP will include provisions for site compatibility certificates to facilitate more consistent zonings and flexible use of school sites with special use zonings. These provisions will permit a school site to adopt the zoning of adjoining land to enable development that is permissible on adjoining land to also be carried out on the school site despite the provisions of the applicable LEP. These provisions will also facilitate the disposal of surplus educational sites.

However, the proposed SEPP will require that 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. In determining whether to issue a certificate, the planning panel can consider information, amongst other things, regarding whether the proposal is consistent with the applicable district growth plan.

Design of Schools

Many school campuses are located within residential neighbourhoods and are an integral part of the community. Well-designed schools create a distinctive and place-friendly facility that responds to and enhance the qualities and identity of the area including adjacent sites, streetscapes and neighbourhood. High quality educational facilities play a significant role in supporting the learning outcomes of students and providing flexibility in meeting the changing methods of delivery of educational services.

The proposed SEPP aims to deliver better quality design for schools to ensure that development at schools respond appropriately to the character of the area, landscape setting and surrounding built form as well as providing a high level of amenity for users of the site. A set of design principles have been developed that outline the design requirements for school developments. These principles are contained in Schedule 4 of the proposed SEPP.

The design requirements will apply to three and four storey buildings proposed to be carried out as complying development under the proposed SEPP. An amendment to the EP&A Regulation will require that a certifying authority must not issue a complying development certificate unless they have been provided with a written statement by a qualified designer verifying that school buildings that are more than 12 metres in height achieve the design quality principles contained in Schedule 4 of the proposed SEPP.

The design requirements also apply to development undertaken at schools that require a development application. Clause 29 of the proposed SEPP requires the consent authority to consider whether the proposed school development meets the design quality principles in Schedule 4 of the proposed SEPP before granting a development approval.

One option that is being considered is an amendment to the EP&A Regulation to require that the designer of school developments that are state significant development must be a qualified architect, similar to the current requirement applying to the designers of residential apartment buildings. This is to ensure that new schools and major school developments are well designed and achieve the design quality principles.

Traffic Issues Associated with School Development

Traffic impacts, demand for parking and road safety in the traffic network surrounding schools are key concerns arising from development occurring at schools.

For certain complying developments that will result in an additional 50 or more students, the proponent will be required to consult the Roads and Maritime Services (RMS) first to assess whether the traffic impacts of the proposed development on the surrounding road network are acceptable or will be acceptable if specified requirements are met. This is to ensure that the traffic impacts arising from certain complying schools development are properly assessed by the RMS prior to the lodgment of an application for a CDC, and any required measures to address traffic congestion and road safety are identified.

Any application for complying development must be accompanied by a certificate issued by the RMS certifying 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. Schedule 1 of the Environmental Planning and Assessment Regulation 2000 will be amended to insert this requirement. If the RMS does not issue a certificate, then the proponent will be required to lodge a development application for the proposed works.

The proposed SEPP provisions also require that a proponent consult with the RMS on schools development undertaken without development consent that will result in additional 50 or more students and located adjacent to a classified road. The proponent is required to take into account any matters raised by the RMS prior to determining whether to undertake the development.

The current process applying to development applications lodged for school developments will continue to apply under the proposed SEPP. Traffic generating developments are referred to the RMS for provision of technical input as part of the assessment process.

Student Accommodation

The provision of accommodation for students is a facility offered by some schools, however, it is not an educational facility and is a separate use. The proposed SEPP clarifies that development proposing student accommodation is not development for the purpose of a school.

Part D: Universities

Currently, the Infrastructure SEPP has limited provisions applying to universities in Division 3. It is proposed to transfer these provisions into the proposed SEPP, and include additional provisions for exempt and complying development, as outlined below.

Exempt development

It is proposed to allow the following exempt development to be undertaken at existing universities: *car parking areas, provided there is no increase or decrease the number of car spaces already required for the site under a previous consent;*

- cycleways;
- outdoor recreation facilities, including fields but not grandstands;
- routine maintenance (including earthworks associated with a playing field or landscaping and maintenance of existing roads);
- lighting;
- landscaping, including irrigation (whether they use recycled or other water);
- environmental management works;
- walking tracks, boardwalks, raised walking paths, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures;
- viewing platforms with an area not exceeding 100m²;
- portable or temporary buildings for educational purposes; and
- demolition of buildings and other development permitted to be constructed as exempt development under the proposed SEPP.

The development standards applicable to these development types are listed in cl 42 of the proposed SEPP.

Complying development

The proposed SEPP will include complying development provisions relating to the provision of core educational facilities by universities within existing sites, including:

- information or education facilities,
- cafes and take away food premises to provide for students and staff that is carried out in accordance with AS 4674-2004, Design, construction and fit-out of food premises,
- office premises,
- community facility,
- recreation facilities (indoor),
- amenities building,
- storage facility, maintenance facility, and
- environmental facilities including greenhouses and glass houses

The development standards that are proposed to apply to complying development include a maximum height limit of 15m and 3 storeys, and restrictions on gross floor area. These development standards are listed at cl 43 and Schedule 3 of the proposed SEPP. An option is being considered to restrict application of the complying development provisions to existing universities located within SP1 and SP2 zones only, to ensure that complying development permitted by this proposed SEPP may be carried out only on the main campuses of universities.

Various amendments to the Codes SEPP will also be made, including amending provisions to enable universities to access change of use provisions to allow a change from a commercial or industrial premises to an educational establishment. This is to acknowledge the changing nature of delivery of tertiary education and to enable services to be provided beyond campuses in settings such as office buildings and business parks. The size of premises that may be occupied using the change of use complying development

provisions for universities will be restricted to a gross floor area of 60m², to ensure that proposed change of use of larger premises will require a full assessment through the development application process.

Development Without Consent

Provisions enabling development to be undertaken without development consent will be included in the proposed SEPP. These provisions will enable the following types of development to be carried out without consent in connection with an existing university:

- one storey buildings for school purposes such as a library, administration, a classroom, a tuckshop, cafeteria or bookshop
- a car park that is not more than one storey high,
- an outdoor learning or play area and associated awnings or canopies,
- minor alterations or additions, such as internal fitouts, or to address occupational health and safety requirements or to provide access for people with a disability,
- restoration, replacement or repair of damaged facilities,
- demolition of buildings or structures.

Developments undertaken without consent will only allow for minor expansions of existing universities. The provisions will restrict the amount of gross floor area of buildings that can be constructed under this provision, as outlined at clause 40 of the proposed SEPP. Development undertaken without consent also cannot contravene any existing condition of a development consent (other than a complying development certificate) that applies to any part of the university, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

Development With Consent

The existing provision at clause 28 of the Infrastructure SEPP will be transferred to the proposed SEPP. The proposed SEPP will permit development for the purpose of a university to be carried out with consent in prescribed zones. Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* will continue to apply to tertiary institutions, which provides that development for the purpose of educational establishments (including associated research facilities) that has a capital investment value of more than \$30 million are SSD applications. Developments with a value less than \$30 million will continue to be local and regional development applications, dependent on cost of the project.

Student Accommodation

The provision of accommodation for students is a facility commonly offered by universities, however, it is not an educational facility and is a separate use. The proposed SEPP clarifies that development proposing student accommodation is not development for the purpose of a university.

Part E: TAFE NSW Institutes

Currently, planning provisions applying to TAFE NSW institutes are contained within the Infrastructure SEPP. It is proposed to transfer these provisions into the proposed SEPP, and include some minor additional provisions for exempt and complying development, as outlined below.

Exempt Development

The types of exempt development proposed to be permitted to be carried out within the boundaries of an existing TAFE institution include:

- landscaping, including irrigation schemes (whether they use recycled or other water),
- play equipment,
- routine maintenance and environmental management works,
- cycleways, walking paths, boardwalks and raised walking paths, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
- outdoor recreation facilities including playing fields but not including grandstands,
- viewing platforms,
- use of existing facilities as out-of-school-hours care, including vacation care, for primary school students,
- use of existing facilities as out-of-school-hours care, including vacation care, for primary school students,
- Information boards and way finding signage,
- Single storey amenities buildings,
- A portable or temporary office, classroom or amenities, and
- Demolition of certain structures and buildings.

The development standards applicable to these development types are listed in cl 49 of the proposed SEPP.

Complying Development

Complying development is proposed to be permitted within the boundaries of an existing TAFE institution.

The types of complying development that will be permitted include:

- cafes and take away food premises to provide for students and staff,
- recreation facilities (indoor) and (outdoor),
- environmental facilities, including greenhouses and glass houses,
- information and education facilities,
- office premises related to the existing tertiary institution,
- community facilities,
- centre based child care,
- a storage facility or maintenance facility,
- demolition of certain buildings,
- minor alterations or additions to existing buildings, and
- restoration, replacement or repair of damaged facilities.

The development standards that will apply to these developments include a height limit of 12m and minimum side and rear setbacks. The development standards are listed in cl 50 of the proposed SEPP.

Various amendments to the Codes SEPP will also be made, including amending provisions to enable TAFEs to access change of use provisions to allow a change from a commercial or industrial premises to an educational establishment. This is to acknowledge the changing nature of delivery of tertiary education and to enable services to be provided beyond campuses in settings such as office buildings and business parks.

Development Without Consent

The existing provision at clause 29 of the Infrastructure SEPP will be transferred to the proposed SEPP. The types of development that will be permitted to be carried out without consent in connection with existing TAFE institutions are listed at cl 47 and include:

- one storey buildings for school purposes such as a library, administration, a classroom, a tuckshop, cafeteria or bookshop
- a car park that is not more than one storey high,
- an outdoor learning or play area and associated awnings or canopies,
- minor alterations or additions, such as internal fitouts, or to address occupational health and safety requirements or to provide access for people with a disability,
- restoration, replacement or repair of damaged facilities,
- demolition of buildings or structures.

Developments undertaken without consent will only allow for minor expansions of existing TAFE institutions. The provisions will permit development that will not allow for an increase in the numbers of student and staff numbers at the existing school that is greater than 10% of the numbers at the site during the previous 12 months. Development undertaken without consent also cannot contravene any existing condition of a development consent (other than a complying development certificate) that applies to any part of the TAFE, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

Development With Consent

The existing provision at clause 28 of the Infrastructure SEPP will be transferred to the proposed SEPP unchanged. The proposed SEPP will permit development for the purpose of a TAFE to be carried out with consent in prescribed zones. Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* will continue to apply to tertiary institutions, which provides that development for the purpose of educational establishments (including associated research facilities) that has a capital investment value of more than \$30 million are SSD applications. Developments with a value less than \$30 million will continue to be local or regional development applications, depending on the cost of works.

Part F: Related amendments to other environmental planning instruments

State Environmental Planning Policy (State and Regional Development) 2011

An amendment to Schedule 1, Part 15 of the State and Regional Development SEPP is proposed, to amend the trigger for school developments to become State Significant Development (SSD) applications. All new schools will be classified as SSD applications, and the capital investment threshold for major works to existing schools is proposed to be lowered from \$30 million to \$20 million.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)

A number of minor amendments to the Codes SEPP relating to child care facilities, schools and tertiary institutions is proposed as outlined in the respective Parts above, including amending provisions to enable universities to access change of use provisions.

State Environmental Planning Policy (Infrastructure) 2008

The Infrastructure SEPP will be amended by removing provisions that relate to educational establishments.

Standard Instrument Local Environmental Plan Order

Consequential amendments will also be made to all relevant planning instruments to enact amendments to the *Standard Instrument Local Environmental Plan Order*. The changes include inserting new definitions for various child care facilities into all affected environmental planning instruments and updating the permissible uses in the R2 Low Density Residential and IN2 Light Industrial to include centre-based child care.