



HUNTER'S HILL COUNCIL

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Enquiries:

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The Hon. Anthony Roberts, MP
Minister for Planning, Housing & Special Minister of State
GPO Box 5341
SYDNEY NSW 2001

Dear Minister

Infrastructure State Environmental Planning Policy (SEPP) 2007 - Review Draft SEPP (Educational Establishments and Child Care Facilities) 2017

Thank you for the opportunity to comment on the two SEPPs proposed to assist with the planning and delivery of community infrastructure. Sydney's rapidly increasing population is highlighting the need for additional health services, schools and childcare centres. The two SEPPs will make it easier to fast-track the delivery of new facilities and the expansion of existing ones. However, speed of delivery is not the only criteria used to judge major infrastructure projects. Outlined below are Council's four (4) major concerns regarding the provisions in the subject SEPPs and their impact on planning in New South Wales.

1. Strategic Planning undermined by SEPPs & Expansion of Code Assessment

Using the SEPPs to make state wide amendments to Local Environmental Plans by expanding permitted land uses into zones where they were previously prohibited by councils is considered a misuse of these documents and will contribute to growing uncertainty regarding land uses and exacerbate public confusion.

New schools and hospitals should be located in areas of greatest need and near complementary land-uses and an existing public transport network. In Sydney the Greater Sydney Commission (GSC) has been tasked with identifying through their district plans suitable locations for new schools and hospitals where leveraging of existing and proposed services can occur. The draft SEPPs by making hospitals and educational establishments permissible in any residential zone encourage decisions about the location of new facilities to be based on lot size, land cost and availability. The State Government or Councils will then in the future have the expensive job of trying to retrofit necessary support services to the new facility.

Furthermore, proposing that intensification works associated with hospitals and educational establishments can be addressed as exempt or code assessment work shuts Council out of the process. This impacts on Council's ability to carry out effective strategic planning with regard to local supporting infrastructure such as roads or storm-water drainage. Decisions made without Council input may have consequences that require Council to outlay funds to implement critical but unplanned infrastructure such as road safety measures near an expanded school.

2. Potential loss of Local Character & Amenity without adequate consultation

The changes proposed by the SEPPs have the potential to significantly change the character and amenity of areas within Hunters Hill. These potential changes need to be communicated clearly to the community and adequate time has not been provided to undertake this task. The community expect permissible uses, height and floor space to be set by their Council's local environmental plan as this is the way the planning system has operated since the commencement of the Environmental Planning and Assessment Act in 1979. (EP& A Act)

The changes proposed by the SEPPs are wide reaching and if enacted will lock the community out of many decisions where historically they would have had a voice. The exhibition period for the SEPPs (6 February to 7 April 2017) coincided with the exhibition of the GSC's draft District Plans and significant amendments to the EP&A ACT 1979. Accordingly, the exhibition timeframe was not considered sufficient for Council's to digest the changes and communicate them adequately to its constituents.

The draft changes incorporated in the SEPPs provide potential for large buildings up to 22m in height to be built without any merit assessment in low density residential areas in Hunters Hill. Additionally, the setbacks from site boundaries can be as little as 1m if the boundary does not adjoin a residential zone. Hunters Hill Council has a number of schools that adjoin the harbour. How can preservation of the character and amenity of the Hunters Hill Heritage Conservation Areas be assured under these parameters?

Council understands that a certifying authority prior to approving a building over 12m must be provided with a written statement by a qualified designer that verifies the development achieves the design quality principles set out in Schedule 4 of the draft SEPP (Educational Establishments and Child care centres). The Regulations define a qualified designer as a person registered as an architect in accordance with the Architects Act 2003. However, they do not require that they have heritage expertise. Additionally, no measures have been suggested to ensure quality control of this system or what happens if a proposal achieves the majority of requirements but fails to satisfy all of the design principles.

At the very least the provisions applying to educational establishments and health service facilities should not apply in heritage conservation areas and the legislation needs to be amended to provide protective measures where educational establishments, child care centres or health services - adjoin heritage items, the coastline, the harbour or national parks.

3. Introduces Inconsistency into the Developer Contributions System

The height control for the Hunters Hill low density residential area is 8.5m. The Draft SEPP (Educational Establishments and Childcare Centres) as previously mentioned will allow educational establishments up to 22m to be code assessed in this low density area. In effect the draft SEPP is enabling an amendment of the height standards in Council's Local Environmental Plan but there is no mention of value capture. A private developer, building a private school such as a cooking school may benefit from this and not have to contribute to public infrastructure. Whereas a developer seeking to amend a height control through a planning proposal would be expected to contribute back to the community. This inconsistency needs to be addressed as it will increase developer's reluctance to pay contributions and the community's push back on densification. However, the proposal that Voluntary Planning Agreements be accepted with code development is not the solution (refer recent proposed amendments to EP&A Act 1979).

4. Protection of Valued Assets threatened by Increasing Complexity

The Draft SEPP (Educational Establishments and Childcare Facilities) introduces new complexity into the planning system by proposing to further expand the role of code development. This means, provisions applying to the assessment of these facilities will be split between numerous documents – the EP&A Act 1979 , the Codes SEPP 2008 and now the new draft SEPP. Establishing what provisions apply to what type of development and the relevant assessment path is difficult and potentially detrimental to ensuring protection of assets such as heritage, urban canopy and native vegetation. For example, only the Codes SEPP specifies that a general requirement for complying development is that it must not be carried out on land that:

- (iii) *is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified*

Working within the provisions of the draft SEPP it would be possible to miss this first step in the assessment process as it is not in the primary document being used to guide assessment.

The draft SEPP is being introduced as part of a package of NSW planning reforms aimed at simplifying planning processes, however the changes proposed seem only to add to the complexity of the system especially with regard to code assessment and private certification.

The changes proposed in the Infrastructure SEPP and the new Educational Establishment and Childcare SEPP represent a major shift away from local planning for community infrastructure. While the intention to fast track the provision of much needed community infrastructure is understood it must not come at the cost of local character, amenity, community support and a fair and consistent developer contributions system.

It is recommended given the current work of the GSC in Sydney that further consideration be given to determining if state-wide amendments to land-use tables are necessary. Additionally, Heritage Conservation areas need to be excluded from the application of the SEPPs and further work is to be undertaken to ensure an equitable developer contribution system prevails and that protection is retained for valued assets such as the harbour, coast line, state and local heritage items. Once this review is complete it is respectfully recommended the SEPPs be re-exhibited for further comment.

Should you require any further information, or wish to discuss our submission please do not hesitate to contact me on 9879 9430 or email genmanager@huntershill.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Smith', with a stylized flourish at the end.

Barry Smith
General Manager
Hunters Hill Council