



## **Submission to Department of Planning & Environment**

*Draft State Environmental Planning Policy  
(Infrastructure) 2007*

**AND**

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

**March 2017**

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## Executive Summary

Council has prepared this submission in response to the *draft State Environmental Planning Policy (Infrastructure)* (draft Infrastructure SEPP) and the *draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities)* (draft Education and Child Care SEPP).

Council welcomes the opportunity to provide comment on the results of the DPE's SEPP Review Program, which intends to make it easier and faster to deliver and maintain social infrastructure including health facilities, correctional centres, emergency and police services, and council services.

Camden Council also supports the NSW Government's commitment to increasing access to child care and education infrastructure. This objective is aligned to Council's awareness of the potential stresses experienced by residents in accessing essential services such as child care, as identified in our community strategic plan *Camden 2040*.

Council has conducted a review of the changes proposed in both draft SEPPs. These are presented through two key parts of this submission.

### Part 1

Part 1 of the submission contains Council's comments on the draft SEPP (Infrastructure). Whilst the proposed amendments are considered to be minor in nature, Council wishes to use this opportunity to suggest further areas of review under the Infrastructure SEPP for the DPE's consideration. This is in relation to:

- Permitting advertising signage on bus shelters as exempt development; and
- Removing the use of 'classified roads' from Schedule 3 of the Infrastructure SEPP

### Part 2

A review of the draft Education and Child Care SEPP has been conducted against existing controls in the Camden Development Control Plan 2011 (Camden DCP 2011). Consideration has also been given to community concerns and expectations surrounding education and child care development.

Council further believes that children in child care have different needs compared to the needs of primary and high school children. Council considers these different needs must be addressed when considering the infrastructure requirements of educational establishments and child care facilities.

Whilst Council broadly supports the overall vision reflected in the draft SEPP, some key issues have been identified. These relate to Council's diminished role in ascertaining planning outcomes for child care and school development under the draft SEPP, as well as managing the associated amenity impacts. Consideration is also given to Council's lack of planning control under the draft SEPP for producing a built form that is well integrated and will offer a positive contribution to local character and context.

Further insight into the themes identified above are reflected through the following key issues discussed in Part 2 of the submission below:

1. Impact on existing and future character and context;

2. Traffic impacts;
3. School complying development;
4. Noise impacts;
5. Reduced community input; and
6. Technical assessments.

Part 2 of the submission also reflects the need for clarification on the policy framework being proposed under the draft Education and Child Care SEPP:

- Change in definitions to the Standard Instrument Order; and
- Statutory weight of the Child Care Planning Guidelines

Additional considerations are also briefly addressed in relation to exempt development of home-based child care on bushfire prone land. This submission reflects Council's strong support of permitting this development as exempt development under the draft SEPP.

## Introduction

This document forms Camden Council's formal submission to the exhibition of the *draft State Environmental Planning Policy (Infrastructure)* and *draft State Environment Planning Policy (Educational Establishments and Child Care Facilities)*.

The submission was endorsed by Council on 11 April 2017.

## Background

### Draft Infrastructure SEPP

In early 2016 DPE commenced the latest review of the Infrastructure SEPP in early 2016. The 2016 review had a strong focus on improving the delivery of social infrastructure. Consequently, the draft SEPP introduces new provisions for health facilities, correctional centres, emergency and police services, and council services. As part of the review, DPE proposes to transfer the educational provisions contained in the Infrastructure SEPP; into new standalone draft Education and Child Care SEPP.

### Draft Education and Child Care SEPP

The NSW Government notes that unprecedented population growth is placing increasing pressure on education and child care facilities.

On 3 February 2017, the DPE released the draft Education and Child Care SEPP with the intention of simplifying the planning process and to make it easier for child-care providers, schools, TAFEs and universities to upgrade and build new facilities.

The proposed SEPP also sought to introduce the physical environmental requirements for early childhood and care facilities from the National Quality Framework into the NSW planning system for the first time.

#### Public exhibition period

The public exhibition period for both draft SEPPs was initially open until 24 March 2017. This deadline was later extended to 7 April 2017. The DPE has granted Council further time to lodge this submission.

## Part 1

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### Submission to the Draft Infrastructure SEPP

Council has determined the nature of the amendments proposed in the Draft Infrastructure SEPP are minor in nature, and are broadly supportive of the proposed changes. In addition to the proposed changes Council officers suggest the DPE investigate additional provisions relating to bus shelters.

### Key suggestions

#### Advertising signage on bus shelters permitted as exempt development

Under the draft Infrastructure SEPP, bus shelters are currently exempt development. Commercial advertising signage on bus shelters is not exempt development and requires the submission of a development application. Additionally, clause 10 of State Environmental Planning Policy No 64—Advertising and Signage, prohibits advertising signage in a number of land use zones including residential and open space zones.

As a result of discussions between Council officers and potential bus shelter providers, it was determined that there is potential for bus shelters with advertising signage to occur in some residential areas.

Council officers have found the approach adopted by other Councils is for bus shelter advertising to be listed under exempt development in their LEP. As the bus shelters are within the road reserve, the decision to progress with bus shelters and advertising signage would remain with Council.

#### *Recommendation:*

The draft submission suggests the Infrastructure SEPP could be further amended to nominate advertising signage on bus shelters (and taxi rank shelter signs) as exempt development, subject to compliance with the following development standards:

- Must be located on land owned or managed by Council;
- Council approval must be obtained for the shelter and advertising signage;

- Must not extend beyond the perimeter of the shelter;
- Only 1 advertising panel per shelter that may comprise an advertisement on 2 sides;
- Must not contain flashing or neon signage;
- Must not obstruct pedestrian paths of travel;
- Must not obstruct the line of sight of vehicular traffic.

#### Additional considerations

The following additional amendment is also suggested for the DPE's consideration:

Schedule 3 of the Infrastructure SEPP currently deals with 'Traffic generating development to be referred to RMS'. It is suggested that when a development application needs to be referred to Roads and Maritime Services (RMS), that 'classified roads' should be removed, and replaced with 'state roads'. It is suggested the use of the term classified roads is incorrect, as some local roads are still classified roads. It is suggested the distinction between state and local roads is required to prevent confusion as to when a referral to RMS needs to be made.

## Conclusion

In preparation for this submission, Council has reviewed the draft Infrastructure SEPP exhibited. Overall, the amendments proposed in the draft SEPP are considered minor in nature. However, Council has taken the opportunity to highlight additional issues for DPE's consideration in the review of the draft Infrastructure SEPP.

## Part 2

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### Submission to the Draft Education and Child Care SEPP

#### Key Issues

This section addresses the key issues identified in response to the draft Education and Child Care SEPP.

#### Key Issue 1: Impact on existing and future character and context

Council is concerned the draft SEPP and draft Child Care Planning Guidelines are not adequate enough to ensure child care centres integrate well into their local character and context. This concern is heightened in urban release areas, where Council seeks to ensure child care centres align with the *future* desired character of a development.

#### Non-discretionary standards

The key limitation in this submission is the operation of the non-discretionary standards. It is understood the non-discretionary standards list development standards for particular matters

relating to centre-based child care. If a development application satisfies the standards in this clause, Council cannot require more onerous standards for those matters, or refuse a development application if it complies with the standards.

The submission argues the non-discretionary standards are too broad in scope and limit Council's ability to determine the final design and built form outcome of a child care centre. Under the operation of the clause, Council will also be in a limited position to determine whether a child care centre is sensitively designed and responds well to its locality. This is because the non-discretionary standards extend to factors such as site area, site coverage, site dimension and colour of buildings.

It is also noted that certain non-discretionary standards directly conflict with Council's DCP controls on the same matters. For example, the Camden DCP states the maximum site coverage of a child care centre located within a residential zone must be 50%. This requirement coincides with the site coverage requirement for dwellings in a residential zone and aims to ensure child care centre development matches the scale of its residential context. DCP controls such as this would no longer apply in favour of site coverage requirements in the non-discretionary standard clause, which would allow development to cover any part of the site.

This submission suggests the overall scope of the non-discretionary standards is too extensive, and attempts to enforce a 'blanket approach' to development assessment of child care centres. On this point, the full breadth of non-discretionary standards proposed is not supported, as these contradict Council's aims of ensuring child care development is consistent with its local character and context.

Council has always sought to ensure well-designed and integrated child care facilities. Council has considered these matters in the context of our existing areas, including one matter that was subject to a Land and Environment Court decision. Council would welcome an opportunity to discuss our experiences with the DPE if further information is sought.

#### **Recommendation:**

- The non-discretionary standards are too broad. It is suggested DPE remove site area, site coverage, site dimension and colour of building materials from the non-discretionary standards. This action would afford Council greater scope to determine how a proposed child care development integrates with the existing or future character and context.

## **Key issue 2: Traffic Impacts**

This submission provides a review of proposed changes concerning child care and school development in relation to the management of traffic impacts.

### Child care

The draft Child Care Planning Guidelines state that a centre-based child care facility is not to be located on a site adjoining a busy road. The submission considers that child care centres located on sites adjoining busy roads are not necessarily detrimental to the safety of children, but can pose an unacceptable risk where the facility has direct access to and from main or busy roads. The

submission suggests the Guideline controls are reworded to clarify the locational criteria in relation to access to main or busy roads.

The Child Care Planning Guidelines acknowledge traffic and parking as priority considerations when considering a development proposal for centre-based child care facilities in the low density residential/suburban context. However, these considerations are not reflected in any design criteria that could influence how these considerations are to be addressed.

The relevance of controls in the Camden DCP 2011 is highlighted in this regard. The DCP requires child care centres to be located on land where access to the site is via a road with a carriageway width of 7.4m minimum at any one point. The effect of this control is that child care centres are discouraged on sites with access from narrower roads due to traffic congestion and a reduction in street parking as a result of increased activity.

The Camden DCP 2011 further requires all required parking spaces for a proposed development to be contained within the proposed site, and shown on a plan. It is acknowledged this outcome is not possible for all local government areas. However, Council is in a unique position to implement these standards when planning for urban release areas. It is further noted these standards are particularly relevant to managing traffic impacts in Camden, as we have a high reliance on car usage and limited access to public transport services in comparison to other local government areas in Sydney.

### Schools

Under the proposed changes, a complying development certificate for the expansion of schools must be obtained where the expansion seeks to increase student numbers by more than 50. In order to obtain a complying development certificate, the Roads and Maritime Services (RMS) must certify the impacts on the surrounding road network are acceptable, by way of a traffic certificate that must accompany the application.

That submission suggests that where traffic impacts on local roads will occur, Council should be the authority to assess applications for traffic certificates.

#### **Recommendation:**

- It is suggested the Guideline criteria are reworded to clarify that child care centres should not have access to and from main/busy roads.
- The draft SEPP should include a provision that will allow Council to enforce DCP controls that are designed to manage provision of car parking for child care centres.
- Where a school seeks expansion under complying development, Council should be the authority to assess applications for traffic certificates, where these impacts will affect local roads.

### **Key issue 3: School complying development**

Camden Council understands that schools and education are important to our community. It is therefore equally important to facilitate the provision of schools in our local government area, which is growing significantly. Council is supportive of the notion of delivering new schools that are well designed and positively contributes to the amenity of the surrounding locality.



### Current school complying development provisions in the Infrastructure SEPP

It is noted complying development already exists in the Infrastructure SEPP for school buildings. Currently, the SEPP permits the construction of, or alterations or additions to, classrooms, libraries, administration offices, school halls and canteens to be undertaken as complying development. The Infrastructure SEPP will permit these buildings to reach a maximum height of 12m with a minimum setback of 5m from the side and rear boundary.

### Changes to school complying development in the draft Education and Child Care SEPP

The changes proposed by DPE seek to transfer these provisions from the Infrastructure SEPP to a stand-alone draft Education and Child Care SEPP. Additionally, the height and setback standards are proposed to be changed.

The draft Education and Child Care SEPP stipulates that the height of a building must not exceed 4 storeys and 22m from the ground level. The draft SEPP also adjusts the side and rear setback standards according to the height of the proposed building, and in what zone that building is proposed to be built. The full changes proposed are summarised in **Table 1** below.

<b>Building height</b>	<b>Setbacks in residential zones</b>	<b>Setbacks in all other zones</b>
<b>Up to 12 metres</b>	5 metre setback	1 metre setback
<b>12 – 15 metres</b>	8 metre setback	2.5 metres setback
<b>15 – 22 metres</b>	10 metres setback	4 metres setback

**Table 1: Complying development for school buildings under draft Education and Child Care SEPP**

Council officers have reviewed the above changes and provide the following comments:

#### Increased height of buildings not supported

This submission does not support buildings to be constructed to a maximum height of four storeys and 22 metres as proposed in the Draft Education and Child Care SEPP. Council officers are further not satisfied the corresponding setback requirements will prevent adverse impacts in a low density residential environment. The submission therefore requests DPE especially consider the amenity impacts on low density development, such as overshadowing, visual and acoustic privacy.

#### Supporting infrastructure surrounding school sites should be facilitated in draft Education and Child Care SEPP

Recent government schools in Camden's urban release areas has demonstrated a propensity for school development to focus on design *within* the proposed site, to the expense of providing adequate supporting infrastructure surrounding the site.

The draft Education and Child Care SEPP is silent on the provision of supporting infrastructure surrounding the development site (including adequate on-site parking). However, in Council's previous experience, critical supporting infrastructure to school developments, such as road access, pedestrian crossings, and on-site parking is already challenging to secure.

Council seeks to prevent developments that present adverse impacts on the safety and amenity of local residents, students, staff and visitors. These impacts may be felt because of a lack of supporting infrastructure that can adequately enable the activity of school sites and surrounding areas. In this context, the expansion of school sites that will further increase activity under complying development is concerning.

In this respect, the submission suggests DPE consider including a provision in the draft SEPP that will facilitate schools to deliver enabling infrastructure surrounding the school site. Supporting infrastructure such as access roads, pedestrian crossings, on-site parking and drop-off bays are essential to ensuring schools are well designed and function well, not only within school boundaries, but also in relation to surrounding areas.

The draft submission further suggests capping the expansion of school sites under complying development to a maximum number of 50 students. This would allow Council the opportunity to assess more significant expansions under the development assessment process.

**Recommendation:**

- Increased height of school buildings to 22m and four storeys is not supported. The existing building height standards of 12m and three storeys should be retained.
- The draft SEPP must include provisions that will facilitate schools to provide key supporting infrastructure surrounding the development site (including adequate on-site parking). Key supporting infrastructure should include access roads, pedestrian crossings, on-site parking and drop-off bays.
- The draft SEPP should cap the expansion of schools under complying development to a maximum of 50 new students. Proposed expansions greater than this should undergo development assessment by Council.
- The design quality principles contained in the draft SEPP and supporting draft Better Schools Design Guide should introduce stronger controls aimed to address the surrounding amenity impacts of school development. Consideration should be given to matters such as overshadowing, visual and acoustic privacy.

## Key Issue 4: Noise Impacts

In relation to acoustic privacy, the draft Child Care Planning Guidelines states that a 2-metre-high acoustic fence along any boundary is to be provided along any boundary where the adjoining property contains a residential use.

The requirement to achieve 5dBA above background noise level may warrant the installation of significant acoustic fences (greater than 2.1m in height where there is low ambient background noise). To address this issue, consideration needs to be given to reviewing the target noise levels in the draft Child Care Planning Guidelines, associated technical documents and general accepted industry practice for child care centre developments. The Guideline should also be amended to provide for flexibility in the determination of acoustic fence heights.

Furthermore, Council cannot see the merit in having an internal assessment for affected residence/s especially in greenfield release areas (such as Camden) where an adjoining residential lot may not have an existing dwelling located on the land.

Council is concerned the requirement to assess internal noise appears onerous as it may become difficult to gain access to noise affected residences in-order to undertake required noise assessments. It may also be impracticable to have the assessment undertaken until quite some time after a new child care centre has opened as there will need to be a sufficient time for the centre to provide sufficient numbers of children for the assessment to be accurate.

Camden DCP 2011 has a control for larger centres that the number of children participating in outdoor activities at any one time must be controlled to ensure satisfactory acoustic impacts for neighbouring properties. It is suggested that the draft Child Care Planning Guidelines implement this noise control strategy.

### Recommendation:

- Review target noise levels in the draft Child Care Planning Guidelines, associated technical documents and general accepted industry practice for child care centre developments to avoid the need for the installation of significant acoustic fence heights.
- The draft Child Care Planning Guidelines provide flexibility for determining acoustic fence heights.
- DPE provide direction in the Child Care Planning Guidelines on possibly restricting the number of children participating in external play at any given time to achieve target noise levels.

## Key issue 5: Reduced community input

The submission highlights concern the draft Education and Child Care SEPP will reduce community input on local planning outcomes surrounding child care and school development.

The introduction of complying development for buildings up to 22 metres and four storeys in height will result in unexpected planning outcomes in the local community. This is especially concerning given the potential impacts the scale of such buildings will have on adjoining properties, such as overshadowing and visual privacy. Additionally, residents will be unable to provide comment on the

impact an increased student population will have on the amenity of the locality they live in such as traffic movement, acoustic privacy and reduced parking.

**Recommendation:**

- As per the previous recommendation dealing with the proposed expansion of exempt and complying development provisions, matters that have potential impact on neighbouring properties should be subject to Council's public notification process for development assessments.

**Key issue 6: Technical Assessments**

The submission notes the draft Child Care Planning Guidelines includes an *Appendix 3 – Checklist of Specialist Studies or Technical Considerations in Development Applications*.

The purpose of this checklist is to advise an applicant which specialist/technical studies should be completed, the matters to be addressed in those studies and when an assessment of that nature would be required. The submission recommends the following additional technical studies are included in the checklist:

- Odour Assessment; and
- On-site Sewerage Management.

Odour Assessment

Currently, Camden DCP 2011 will consider the proximity of child care centres to existing odour generating land uses, such as poultry farms, but may require an assessment in accordance with the relevant odour assessment requirements.

Unsewered sites

Under the Camden DCP, child care centres must not be located on land which is not connected to a reticulated sewer of Sydney Water unless satisfactory on-site sewerage management can be provided.

**Recommendation:**

- DPE include odour assessment to Appendix 3 – Checklist of Specialist Studies or Technical Considerations in Development Applications. The odour assessment should be provided based on Council's assessment of the centre's proximity to existing odour generating uses.
- DPE include on-site sewage management to Appendix 3 – Checklist of Specialist Studies or Technical Considerations in Development Applications. This should be provided where a child care centre is proposed to be located on land which is not connected to a reticulated sewer of Sydney Water.

## Matters for clarification

### Change in definitions to the Standard Instrument Order

Proposed changes introduced in the Draft Education and Child Care SEPP will include new definitions for child care centres in the Camden Local Environmental Plan 2010 (Camden LEP 2010). The new definitions that would be introduced would cover: early childhood education and care facilities, centre-based child care, school-based child care, home-based child care and mobile child care.

The submission seeks clarification on whether these definitions would also be reflected in State Environmental Planning Policies applicable to the South West Priority Growth Area.

### Statutory weight of the Child Care Planning Guidelines

The draft submission reports that the statutory weight of the Child Care Planning Guidelines is not clearly represented. To assess development proposals for centre-based child care, clause 21 of the Draft Education and Child Care SEPP states that Council *may* consider Part 3 of the Guidelines. At the same time, clause 24 of the draft SEPP makes it clear a provision of the DCP that specifies a requirement, standard or control in relation to any matter provided for in the Child Care Planning Guidelines does not apply to centre-based child care development.

It is therefore not clear to what extent Council would need to consider the Guidelines relative to Council's DCP Controls, given the Guidelines are intended to replace local development control plans.

## Additional Considerations from Council

### Strong support to make home-based child care on bushfire prone land exempt development

Council provides support for proposed changes that will permit home-based child care on bushfire prone land as exempt development. This is provided the relevant development standards in the *State Environmental Planning Policy (Exempt and Development Code) 2006* are satisfied.

## Conclusion

This submission supports the wider intent behind the proposed changes of the draft Education and Child Care SEPP, which is to increase access to child care and education facilities. Greater access to these essential services is an important step forward in responding to the needs of residents in the Camden Local Government Area.

This submission advocates for the need for child care centres that are sensitively designed in terms of built form, scale and massing, will be capable of making a positive contribution to the character of the surrounding locality and would not create adverse impacts to traffic and parking. The draft

submission therefore raises concerns on the implications these proposed changes will have on the Camden DCP and Council's diminished role to ensuring positive planning outcomes for the community.