

Our reference: E05.9582

30 March 2017

Dear Sir/Madam

**Submission - Proposed Education and Child Care SEPP and changes to the Infrastructure SEPP**

Eurobodalla Shire Council welcomes the opportunity to comment on the proposed Education and Child Care SEPP and changes to the Infrastructure SEPP.

Please find attached our submission to the proposed changes.

Yours sincerely



Jeff Morgan  
**Divisional Manager, Strategic Services**

Encl.

Eurobodalla Shire Council (Council) has reviewed the proposed Education and Child Care SEPP and changes to the Infrastructure SEPP. While there are a number of changes that Council supports, we have a number of suggested changes and comments.

## **1. Education and Child Care SEPP**

### **1.1 Appointment of the Joint Regional Planning Panel (JRPP) / Sydney Planning Panel (SPP) as consent authority for all Development Applications (DAs)**

The Department is seeking views on appointing JRPPs or the SPP as the consent authority for all DAs. The purpose of this is to ensure broad scale / regional consideration of DAs for educational institutions. This is particularly relevant in metropolitan areas where schools may be located on local government boundaries. Appointing the JRPP to assess DAs is considered unnecessary in regional areas such as the Eurobodalla.

### **1.2 Complying Development – NSW Roads and Maritime Services**

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.

Council has in the past presented to government Staysafe Committees examples of initial designs that were unsatisfactory until many positive provisions and changes were negotiated. To overcome this, referral to the Roads and Maritime Services only on such matters is insufficient. There needs to be a requirement for sign-off by the Local Traffic Committee (Development) so that Eurobodalla Shire Council and NSW Police input is obtained.

It is understood that RMS will work on administrative procedures to ensure early discussion with local traffic committees and councils. It is important that these measures are put in place to enable local consultation.

### **1.3 Complying Development – Principal Certifying Authority (PCA)**

The Department advised at a workshop held in Queanbeyan on 7 March 2017 that it is seeking feedback on limiting the role of the PCA for complying development to Council only. This is in response to concern being expressed by the NSW Local Governments and Shires Association about significant scale developments being certified by private sector PCAs. It is considered a reasonable outcome that under the new Education and Child Care SEPP, the role of the PCA for complying development is limited to Council.

### **1.4 Home Based Child Care in bush fire prone land**

As a result of the new Education and Child Care SEPP, a proposal for home-based child care on bush fire prone land will be exempt development if there is an asset protection zone, an emergency management and evacuation plan and the dwelling is not located in bush fire attack level zones BAL-40 or BAL-Flame Zone.

While this is a good outcome, there are some specific legal matters that still need to be addressed. To enact this, there will be changes in definitions in the Standard Instrument Local Environmental Plan.

The change in definition in the Standard Instrument Local Environmental Plan from child care centre to centre based child care is not replicated in the Rural Fires Act (100B) and the NSW Rural Fire Service document Planning for Bush Fire Protection (PBP). Therefore there is still the possibility that a 100B Bush Fire Safety Authority will be required for home based child care, even though the development may be exempt. To ensure this is clear, section 100B (6) (b) of the *Rural Fires Act 1997* should change from “a child care centre” to “centre based child care”.

Secondly, where a proposal for home based child care on bush fire prone land does not satisfy the specific bushfire requirements, ie an adequate asset protection zone, it will not be exempt development and will require a DA. By not amending the section 100B (6) (b) of the *Rural Fires Act 1997* to ensure consistent definitions with the Standard Instrument Local Environmental Plan, there will be no clarity through legislation as to whether such a DA will be Integrated Development (and require a section 100B Bush Fire Safety Authority) or wheter it will be a section 79BA referral to the NSW Rural Fire Service. This is a significant issue as the 100B requires an additional fee payment to the NSW RFS and a formal approval. A 79BA does not require an additional fee payment and results in advice from the NSW RFS.

The Department have advised that the NSW RFS plan to resolve this matter through amendments to the Planning for Bushfire Protection document. This is not considered an adequate, or legal response. Defining whether a DA is integrated development or not must happen through legislation, not through a planning guideline.

## **2. Infrastructure SEPP**

### 2.1 Lead-in Water and Sewerage Infrastructure

It is proposed to introduce new provisions in order to simplify the assessment and approval process for minor lead-in sewerage and water infrastructure. Lead-in infrastructure is generally minor pipeline works used for the collection and transfer of sewage or water from a new development to an existing sewage or water reticulation system.

The new provisions will enable lead-in infrastructure in the Sydney and Hunter water supply and sewerage networks to be undertaken as complying development. There is no explanation as to why this was not broader to include other water and sewer authorities. It is considered appropriate that these same provisions apply to the Eurobodalla.

### 2.2 Council operational land

It is proposed to extend exempt and complying development permitted without consent which council scan currently undertake on their public reserves to include operational lands.

The proposed exempt development provisions include walking tracks, bicycle-related storage facilities, barriers, ticketing machines, viewing platforms, some sporting facilities, play equipment, picnic tables and shelters.

The proposed development permitted without consent includes roads, cycleways, single storey carparks, recreation areas and recreation facilities (outdoor), information boards, lighting, landscaping amenities, food preparation facilities, maintenance depots, environmental management works and demolition of buildings.

Permitted without consent does not mean there is no assessment undertaken for these works, but rather than development consent, approval is issued under Part 5 of the *Environmental Planning and Assessment Act 1979* and a review of environmental factors is required.

While the above changes are positive, the provisions remove “visitor information centre” from development without consent. This is not discussed in the Explanation of Intended Effects document and is considered an unnecessary change.