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SJ:MC



7 April 2017

The Director  
Industry and Infrastructure Policy  
Department of Planning and Environment  
PO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

**DRAFT STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017 - DUBBO REGIONAL COUNCIL SUBMISSION**

I refer to the public exhibition documents in relation to the proposed draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 which were recently placed on public exhibition by the Department of Planning and Environment from 3 February 2017 until 7 April 2017.

Council welcomes the opportunity to provide perspectives in respect of the proposed draft State Environmental Planning Policy and understands the general intent of the draft SEPP is to ensure childcare and education infrastructure can be delivered in a timely manner. However, the provisions of the draft SEPP need to be carefully considered to ensure education infrastructure that is of a significant scale is not planned without due consideration of impacts as a component of the planning system.

Council acknowledges that the Complying Development pathway is an appropriate assessment regime for ancillary and minor development in respect of education establishments. The SEPP should not allow for any significant expansion of the Complying Development pathway for educational establishments.

The following comments refer to Council's response to the Explanation of Intended Effect (EIE) and draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

**1. Part A: The Policy Framework**

The draft SEPP proposes to provide the physical environmental provisions of the National Quality Framework into the planning process for child care facilities. Additionally, the changes propose to remove the development provisions for school and tertiary institutions currently included in State Environmental Planning Policy (Infrastructure) 2007 and include the provisions in the new draft SEPP.



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Council generally supports the amendments to the policy framework for child care facilities and education establishments.

## **2. PART B: Early Childhood Education and Care Facilities**

The exhibited documents propose to change the definitions of early childhood education and child care services within the Standard Instrument (LEP). Consideration should be given to the concurrent definitions as contained in the Building Code of Australia (BCA). If irregularities are present, the building classification may change and result in contradictions between the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and the BCA. The following phrase within the definition of *home-based child care* is considered to be inconsistent with the provisions of the BCA:

*"if the number of children (including any children who reside at the dwelling) does not at any one time exceed 7 under the age of 13 years, including no more than 4 who do not ordinarily attend school."*

It is also noted that the draft amendments package proposes to promote further flexibility in the location of centre-based child care. This includes allowing centre-based child care as a permissible development in the IN2 Light Industrial zone. It is considered that light industrial land use activities and child care are not appropriate. The provision may result in increased exposure to noise and air pollution in outdoor learning spaces. Other safety concerns may involve the manoeuvring of heavy vehicles and issues of limited visibility around the centre, posing a risk to children entering and exiting the site. In addition, the development of child care facilities in industrial zones is likely to be undertaken on brownfield land. This places a significant emphasis on the appropriate remediation of the land to an acceptable standard in accordance with the Contaminated Land Management Act, 1997 and State Environmental Planning Policy No 55 – Remediation of Land.

## **3. PART C: Schools**

The exhibited documents include the proposed provision of an additional Complying Development pathway for private schools which is proposed to have no direct requirement for consultation with local councils. The draft SEPP is proposed to permit buildings up to a height of 22 metres using this assessment pathway. It is considered that private certifiers may not have the appropriate level of knowledge of the subject site and the planning issues that may historically impact development of educational establishments.

In addition, the draft SEPP includes a proposal for Complying Development proposals to be assessed by the Roads and Maritime Services (RMS) prior to lodgement. It is unclear as to the role of local councils in this process and the ability of the RMS to prescribe any road upgrading activities on Council owned and maintained roads.

The draft SEPP also includes a proposal for registered non-government schools to undertake certain development activities without development consent. Consideration of the environmental impacts of the proposal would be required to be undertaken in accordance with Part 5 of the Environmental Planning and Assessment Act, 1979. To facilitate this provision, it is understood that an Environmental Assessment Code of Practice would guide such activities.

The community consultation requirements proposed to be included in the Environmental Assessment Code of Practice include the provision of correspondence to Government agencies in which the proponent considers relevant to a proposal. In addition, the proposed SEPP also specifies that the proponent must notify the local council. It is considered that this component of the proposed SEPP may result in the full requirements of local infrastructure not being adequately planned for and provided as a component of a development. It is considered that this component of the draft SEPP cannot be supported by Council. The proposed governance regime associated with this proposal does not appear to ensure the interests of the community and councils are taken into consideration and is open to misinterpretation

#### **4. PART D: Universities**

Council generally supports the proposal to restrict Complying Development provisions to existing universities located within SP1 Special Activities and SP2 Infrastructure zones. It is considered that this provision will ensure other education establishments are subject to the development assessment process.

Council appreciates the opportunity to provide these comments in respect of the draft SEPP. If you require any further information or clarification regarding this submission, please do not hesitate to contact Council's Manager City Strategy Services, Steven Jennings, during normal office hours on (02) 6801 4000.

Yours faithfully



*Melissa Watkins*

Director Environmental Services