

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

Lane Cove Council Submission

7 April 2017



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

Lane Cove Council wishes to express its thanks for the opportunity to comment on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. Council supports the intention of the SEPP as it aims to align various controls at national, state and local government levels. The need to accommodate and ensure the adequate and timely provisions of childcare centres, schools, TAFE and University infrastructure and services is not questioned.

All Councils and communities benefit from quality education and must seek to accommodate and support the provision and augmentation of vital education infrastructure.

Council notes, however, that some changes have also occurred in relation to specific planning matters for child care facilities, schools, TAFEs and universities. It is with some of these changes that Council wishes to take issue.

## Child Care Centres

### Cap on Number of Places

Lane Cove Council's *Development Control Plan Part I – Child Care Centres* applies to centre-based child care facilities. The draft Education & Child Care SEPP, especially matters for consideration under the new Child Care Planning Guideline Parts 2 & 3, overrule (by effectively disapplying) all provisions of Lane Cove DCP Part I.

#### *Comment*

This removes the current ability for Council to limit the maximum number of places at any one child care centre in a residential zone to 60 places based on genuine planning grounds (i.e. traffic, amenity impacts, etc). The draft SEPP also disallows Council's ability to refuse centres on the basis of proximity of existing facilities, further compounding the potential for excessive traffic and noise impacts on local streets.

As a result, potentially large centre-based facilities could be permitted in local streets in low density residential zones. It is noted that the issue of traffic impacts is addressed under complying development regime for Schools. There, it's a requirement for the RMS to assess the traffic impacts of complying schools development prior to the lodgement of a complying development certificate (CDC).

Such a requirement also for centre-based child care facilities is recommended, as it would allow a merit-based assessment of the traffic impact of a facility in, for example, a low density residential zone.

### Hours of Operation

Under the same draft SEPP provisions, clause 24 would disapply Council's ability to limit the maximum hours of operation to "between 7.00am and 6pm, Monday till Friday, in a residential zone" (DCP, Part I.12).

#### *Comment*

Section 31 of the new Child Care Planning Guideline sets out measures to protect the acoustic privacy of neighbours. However, these measures do not address the potential cumulative effect of several, large centre-based child care facilities.

Moreover, traffic and transport assessment is only required for over 90-place facilities in residential zones. The combined noise and traffic effects, especially on weekends and evenings, are considered potentially to have an adverse impact on the amenity of residents in the vicinity of such proposals.

### Bush Fire Prone Land

The current restriction on child care facilities in bushfire prone land is proposed to be removed, but would be subject to strict fire safety development standards inserted into the Codes SEPP.

#### *Comment*

Although a home-based child care facility is now exempt from requiring approval, the requirement for a Service Approval from the Department of Education is expected to be the point at which the development conforms with the Codes SEPP. There is no detail of how rigorously this Service Approval will ensure bush fire protection measures are enforced for exempt development.

### Permissibility in Industrial Zones

Centre-based child care is to be permitted in industrial zones (with heads of consideration in the draft SEPP to protect the health and safety of children and centre staff in IN1 & IN2 industrial areas).

#### *Comment*

The industrial zone considerations on page 36 of the Child Care Planning Guideline lack rigour, asking consent authorities to “consider” objectives. A better form of wording is exemplified in Clause 22 of the SEPP, which uses the stronger “must consider... whether...”.

### Concurrence of Department of Education

The concurrence of Department of Education is required for DAs where standards of the Child Care Planning Guideline are not met (especially regarding play areas). The Department has 28 days to respond.

#### *Comment*

While this applies to DAs, it is unclear how this non-compliance is to be policed for home-based and most school-based (exempt or complying) child care. Presumably this is via the Service Approval.

### Non-discretionary development standards

Similar to other existing SEPPs, grounds are given by which a development application for a centre-based child care facility cannot be refused by a consent authority. These include that 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.

#### *Comment*

These grounds effectively prevent a Council from refusing a development that has a bulk, especially a street frontage, that is inconsistent with the character of the street. This is a poor planning outcome.

## Schools

### Heights of Complying Schools

The current maximum height of a complying school development in the existing Infrastructure SEPP is 12 metres. New design standards in Schedule 2 of the draft SEPP allow a 22m building. Setbacks are to increase, stepping back with height increases, in a manner approximating setbacks in the *NSW Apartment Design Guidelines* (but generally one metre less).

#### *Comment*

This departure from the existing Infrastructure SEPP would have the effect of permitting, without Council consent, a 22m school building potentially adjacent to residential areas. The building would be set back 5m for the first 12m, as is now the case under the Infrastructure SEPP. From 12m to 15m height would be permitted if set back 8m, and from 15m to 22m if set back 10m.

This new “Complying development” regime includes construction of buildings for educational uses such as classrooms, a library, administration, school hall, gymnasium, canteen or a child care facility, all within the grounds of an existing school. Such a 22 metre construction adjacent to low rise residential development would create an inappropriate bulk and scale impact. Furthermore, the potential for unacceptable overlooking, overshadowing and character juxtaposition is exacerbated by permitting this development to be done as complying development.

### State Significant Development

The threshold for SSD schools is proposed to be lowered from \$30m to \$20m. Development can therefore contravene design standards of a Council Local Environmental Plan, but is to “take into consideration” the new Design Principles in Schedule 4 of the draft SEPP.

#### *Comment*

The new Design Principles in Schedule 4 of the draft SEPP are general aspirations. They lack the rigour of prescriptive standards such as those in the Design standards for Complying Development (Schedule 2 of the draft SEPP).

The dual impact of lowering the threshold of SSD to \$20m and not providing agreed or community endorsed design standards undermines confidence in the outcome of State Significant Development proposals. It is recommended that prescriptive standards such as those in the Design standards for Complying Development be clearly applied to SSD schools.

### Site Compatibility Certificates

The proposed draft SEPP would include provisions for site compatibility certificates to permit a school site to adopt the zoning of adjoining land. This would enable development that is permissible on adjoining land to also be carried out on the school site despite the provisions of the applicable LEP.

### *Comment*

Site compatibility certificates would permit schools in zones where educational establishments are not currently permitted. Lane Cove LEP only permits educational establishments in certain business zones (B2, B3 and B4 zones) and nominated infrastructure zones (SP2). This clause potentially allows schools in residential zones.

In conjunction with the changes to heights of complying development and SSDs, this proposal directly threatens the existing and future amenity of residential zones.

### Non-government schools

Under a proposed amendment to the *NSW Environmental Planning & Assessment Regulation 2000*, non-government schools would be prescribed as public authorities. Private schools would 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 currently can.

### *Comment*

To include non-government schools under the same controls as government schools has the potential to exacerbate to the problems of inappropriate height and zoning described above. Non-government schools may not have the same motivations or see the need to vigorously have regard to the same checks and balances as government schools when using self-assessment processes.

## Tertiary Institutions

### Commercial Premises

An amendment to the existing Codes SEPP would allow tertiary institutions to access the change of use provisions, to enable them to occupy commercial premises as complying development, provided that relevant development standards are met.

#### *Comment*

This amendment has the potential for TAFEs and universities to operate in employment areas such as Lane Cove West, Lane Cove Village, and St Leonards. The potential effect would be that TAFEs and universities compete with other commercial land uses, potentially driving up rents and land prices and pushing out more appropriate commercial land uses out of commercial areas.

### Business zones

The draft SEPP would allow tertiary educational buildings in Business zones.

#### *Comment*

This proposal has the same potential effect as the above amendment.

## Conclusion

Clearly, in established areas such as Lane Cove such support for the provision and augmentation of vital education infrastructure may challenge our traditional concept of bulk, scale and impacts created by the provision and/or upgrades. The current development assessment process calls for a considered and principled analysis of need and impacts when proposing new and/or changed education generated development. Local DCP provisions and State Environmental Planning Policy guidelines are a tried and tested process that is both consultative and merit based assessment that works.

**The SEPP as proposed, limits or removes local input, fails to provide best practice and considered models that would consider likely impacts to adjoining and nearby communities, and for these reasons Council calls for a fine tuning of the assessment process rather than the wholesale changes proposed in the Draft SEPP.**

While recognizing the value of bringing child care, schools and tertiary institutions together under one SEPP, with design controls appropriate to each, there are a number of serious concerns and problems associated with the manner in which changes to existing controls are envisaged. In brief, the most problematic of these are:

- 1. Councils would no longer be able to limit adverse impacts of child care centres and places within their LGAs, including limits to hours of operation. This has the potential to create cumulative adverse impacts within residential areas and potential land use conflicts in Industrial zones.**
- 2. Allowing a centre-based child care facility to be located on a site of any size, cover any part of the site, and have any length of street frontage or allotment depth, is a 'poor planning outcome'. It effectively prevents Council from refusing a development that has a bulk - especially a street frontage - that is inconsistent with the character of the street.**
- 3. There is no detail of how rigorously the Service Approval will ensure bush fire protection measures are enforced for exempt home-based child care development, creating a potential safety concern.**
- 4. Raising the maximum height of complying school buildings to 22 metres potentially adjacent to residential development is an inappropriate bulk and scale impact, exacerbating the likelihood of unacceptable overlooking, overshadowing and character impacts.**
- 5. The combined impact of lowering the threshold of State Significant (school) Development from \$30m to \$20m and not providing any accompanying design standards undermines public confidence in the outcome of State Significant Development proposals.**
- 6. Site compatibility certificates will permit schools in zones where educational establishments are not currently permitted in Lane Cove such as residential zones. In conjunction with the changes to heights of complying development and SSDs, this proposal directly threatens the amenity of residential zones.**
- 7. To prescribe non-government schools as public authorities has the potential to exacerbate the problems of inappropriate height and zoning described above.**



- 8. To allow TAFEs and universities to occupy commercial premises as complying development, and to develop in business zones, has the potential effect that TAFEs and universities could compete with commercial land uses, driving up rents and land prices and pushing commercial land uses out of commercial areas.**

Council again thanks the Department for the opportunity to provide input on the issues raised in this submission.