

10 April 2017

Director, Industry and Infrastructure Policy
NSW Department of Planning and Environment
PO Box 39
Sydney NSW 2001

Our Ref: 2017/075687

Dear Sir/Madam

Submission on the draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 and associated draft documents.

Thank you for the opportunity to comment on the draft SEPP (Educational Establishments and Child Care Facilities) 2017 and associated draft documents.

Please find attached Council's detailed comments. Council's key concerns are summarised as follows:

SEPP (Educational Establishments and Child Care Facilities) 2017

- The apparent restriction on Council's ability to cap the number of children on a child care centre site may result in unreasonable traffic, parking and noise impacts, particularly in low density residential neighbourhoods.
- A need to control the impact of exempt development on native vegetation and waterways, notably when permitting schools, universities and TAFEs to clear up to 2ha of native vegetation for sporting facilities.
- No cap on incremental development of schools, universities and TAFEs, potentially resulting in significant impacts, particularly related to traffic generation and parking management.
- The complying development process does not include input and comments from local traffic committees and traffic sections of local Councils, potentially resulting in negative impacts on local traffic and parking arrangements. The RMS does not normally assess local impacts.
- Inadequate setback controls to manage impact of school, university and TAFE developments on adjoining residential dwellings which may not be located within a residential zone e.g. Within the E4 Environmental Living zone.
- A proposed building height of 4 storeys – not exceeding 22m from ground level (mean) could have a significant impact on dwellings in R1 and R2 zones. It is

noted that many school sites across the Northern Beaches are within low density residential environments with maximum height limits typically of 8.5m.

- Limited or no requirements to manage impact of development regarding:
 - bushfire prone land;
 - flood liable land;
 - view loss impacts on surrounding developments (notably with complying development schools heights permitted up to 22m and universities up to 15m).
 - impact on heritage items/ conservation areas within the vicinity of a site.

Draft Childcare Planning Guidelines:

- The level of development assessment/concurrence required with Part 2 is ambiguous and requires further clarification.

NSW Code of Practice for Part 5 Activities for Registered non-government schools, February 2017:

- It is recommended that the Department of Planning and Environment establish an audit process to ensure non-government schools are complying with their obligations under the legislation. It is unreasonable to expect Council to monitor development of schools and respond to complaints resulting from a decision of the State Government to deregulate the development approvals process.

Should you have any enquiries in relation to Council's submission, please contact Amber Pedersen, Strategic Planner on (02) 9942 2600 who will be happy to assist.

Yours faithfully



David Kerr
Executive Manager Strategic Land-Use Planning

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- No cap on incremental development of schools, universities and TAFEs, potentially resulting in significant impacts, particularly related to traffic generation and parking management.
- The complying development process does not include input and comments from local traffic committees and traffic sections of local Councils, potentially resulting in negative impacts on local traffic and parking arrangements. The RMS does not normally assess local impacts.
- Inadequate setback controls to manage impact of school, university and TAFE developments on adjoining residential dwellings which may not be located within a residential zone e.g. Within the E4 Environmental Living zone.
- A proposed building height of 4 storeys – not exceeding 22m from ground level (mean) could have a significant impact on dwellings in R1 and R2 zones. It is

noted that many school sites across the Northern Beaches are within low density residential environments with maximum height limits typically of 8.5m.

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

Reference	Concern	Recommendation
5 Definitions	<p>Aboriginal Heritage will not be protected under the definitions of:</p> <p><i>draft heritage conservation area; draft heritage item; heritage conservation area; local heritage item</i></p> <p>Aboriginal heritage items are not identified in LEP's due to sensitivity of the items to damage and cultural wishes. Aboriginal heritage items are also dealt with via the National Parks and Wildlife Act not the Heritage Act. Concern is raised that consideration of Aboriginal Heritage impacts will be excluded/ignored.</p> <p>Currently, the only trigger to identify potential Aboriginal Heritage on a site is for a developer to voluntarily purchase a S149 (5) Certificate. If there is potential Aboriginal Heritage on the site then the developer would be required to contact National Parks and Wildlife Service.</p>	Amend requirements to ensure protection of Aboriginal Heritage.
	<p>Ambiguous definitions: <i>draft heritage item; draft heritage conservation area</i></p> <p>Draft heritage items / draft conservation areas are not listed in LEPs.</p>	Amend to state: "in a draft local environmental plan"

Reference	Concern	Recommendation
Clause 15 – General Requirements for Exempt Development	The requirement to minimise environmental impact should be clearly outlined, especially given the range of exempt development enabled, for example, by Clause 32(1)(g) “..... clearing (<i>up to</i>) 2 hectares of native vegetation”	<p>It is suggested that a similar note to that included in SEPP (Exempt and Complying Development Code) 2008 Clause 1.15(2) is included here as follows:</p> <p><i>Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.</i></p> <p><i>The section states that exempt development:</i></p> <p><i>(a) must be of minimal environmental impact*, and</i></p> <p><i>(b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the Threatened Species Conservation Act 1995 or the Fisheries Management Act 1994),** and</i></p> <p><i>(c) cannot be carried out in a wilderness area (identified under the Wilderness Act 1987).</i></p> <p>* The clearing of threatened species and communities or large areas of native vegetation (e.g. greater 0.25ha) should not be considered as ‘minimal environmental impact’ due to likely impacts on threatened species and communities. It is recommended that clarification be provided on what ‘Minimal Environmental Impact’ means and that area clearing thresholds are comparable to those under the pending Biodiversity Conservation Act 2016.</p>

Reference	Concern	Recommendation
		**It is recognized that the Threatened Species Conservation Act 1995 and provision for 'Critical Habitat' will soon be repealed. The appropriate equivalent within the pending Biodiversity Conservation Act 2016 would need to be inserted.
Clause 8 and 9	For development without consent, requirements to consult with Council are triggered by subjective assessments by the public authority e.g. "generate traffic to an extent that will strain the capacity of the road system..." and "likely to affect a heritage item....in a way that is more than minimal".	Guidance and examples must be provided to public authorities regarding these matters to ensure consistent referrals practice and reduced environmental impacts.
Clause 11 (2)(f)(ii)	As proposed, a public authority could undertake a number of smaller developments, each resulting in less than 50 additional students, but together increasing the student population significantly.	There needs to be a cap on incremental development expansion.
Clause 14(2)	This clause appears to override Council's LEP to allow development without consent on "prescribed state land" adjacent to a school. Whilst land zoned for conservation purposes is excluded, impacts on environmentally sensitive areas could still occur where endangered ecological communities exist.	Amend this clause to ensure development does not impact on endangered ecological communities.
Clause 15(3)(e)	Under this Clause, exempt development can be undertaken without any form of approval or certification by experts. Allowing non-experts to determine whether proposed work will have "no more than minimal impact on the heritage significance of a heritage item or conservation area" is inappropriate and could result in damage to important items/areas.	Amend to make this development complying development.
Clause 20 – Centre-based child care – concurrence of	Council would be required to determine any non-compliance with clause 107 & 108 of Regulations re indoor/outdoor unencumbered space requirements within 7 days to enable referral to the Relevant Authority.	It is recommended that the SEPP include a requirement, similar to the requirements of EP&A Regulations Sch1, Pt1 cl.1 (1) (f)) that the development application must list the

Reference	Concern	Recommendation
Regulatory Authority required for certain development	The establishment of any non-compliance within this period is onerous on Council.	Regulatory Authority for which concurrence is required.
Clause 21	Consideration of Part 3 of the Child care planning guideline appears to be at the discretion of Council. Will Council be required to formally resolve to use Part 3 of the guidelines and/ or adopt them in the form of a DCP?	Please clarify.
Clause 22(2)(b) Centre-based child care in Zone IN1 or IN2 – additional matters for consideration by consent authorities	Concern is raised that childcare centres will become a dominant use in Industrial zones, potentially compromising the viability of the industrial land, given that residential land is more expensive. Clause 22(2) (b) should be amended to future industrial land uses in addition to existing industrial uses.	Clause 22(2) (b) should include "...and future industrial land uses".
Clause 23(2) (c) - <i>Centre-based child care – non-discretionary development standards.</i>	Clause 23(2)(c) is ambiguous regarding "the development may.....cover any part of the site" as it could be interpreted as conflicting with the 'Child Care Planning Guidelines' – '3B Building Envelopes – Height and Setbacks' (pp38) with respect to setback provisions and ensuring adequate privacy for neighbours, landscaping verse hardspace etc. Concern is raised that the proposed non-discretionary development standard in the SEPP will void DCP side setback controls and the 'Child Care Planning Guidelines'. It also seems to conflict with the SEPP - Section 23(2) (e) that requires the development to satisfy the design criteria in the <i>Child Care Planning Guidelines</i> .	Re-word this Clause to remove ambiguity.
Clause 26 Emergency relocation of early	Consideration must be given to whether the new site is located within a hazardous area. I.e. if the new site is located on Bushfire Prone Land or Flood Liable Land.	Include provisions to exclude the emergency relocation of early childhood education and care facilities to land that is Bushfire Fire

Reference	Concern	Recommendation
childhood education and care facilities – exempt development		Prone Land or Flood Liabile Land.
Clause 30(1)(a) – Schools – development permitted without consent	<p>Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone.</p>
Clause 30(2)(a) – (b) Schools – development permitted without consent	<p>Clause 30(2) (a): There are no assessment criteria to determine whether or not the development would require an alteration of transport or traffic arrangements.</p> <p>Clause 30(2) (b) allows development creep and associated traffic generating development. Multiple proposals could proceed as development without consent resulting in schools increasing their student intake by more than 10% in a 12 month period. Even a 10% increase every 12 months is excessive via the development without consent pathway, potentially resulting in significant traffic and other environmental impacts.</p>	<p>Include clarification regarding what development would constitute a requirement to alter transport and traffic arrangements.</p> <p>Establish an absolute cap on expansion of student and staff numbers via the development without consent pathway.</p>
Clause 32 Existing Schools – exempt development	CI 32 (1) (j) – appears to allow the construction of single storey amenities buildings as exempt development. This type of development should be certified for compliance with the Building Code of Australia by a building certifier. It should therefore be complying development.	Relocate to 'complying development'
	Bushfire impact on some forms of exempt development on	Consider inclusion of controls to minimise

Reference	Concern	Recommendation
	bushfire prone land: 32(1)(a);(f);(j);(l)	impacts of bushfire.
	Controlling development impact on flood liable land	Consider inclusion of controls to minimise impacts of flooding.
Clause 32 Existing Schools – exempt development	<p>There is significant potential for damage to Endangered Ecological Communities as a result of the allowance in Clause 32(1) (g) which permits a sporting field, tennis court, basketball court or any other type of court used for sport and associated awnings or canopies, if the development does not involve the clearing of more than 2 hectares of native vegetation.</p> <p>The impact of clearing vegetation on waterways should also be managed.</p>	<p>Amend proposed native vegetation clearing threshold to state “if the development does not involve the clearing of more than 0.25 hectares of native vegetation”</p> <p>Also consider inclusion of controls to minimise impact on waterways such as establishing a threshold to ensure that development and associated clearing must be at least 40m from any waterway (natural).</p>
	<p>Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone.</p>
Clause 33 Existing Schools – complying development	<p>Unless there are existing specific conditions of consent, there appears to be no requirement in the SEPP to manage development creep and associated impacts of traffic generating development via complying development requirements.</p> <p>It is noted that the proposed EP&A Amendment (schools) Regulation 2007 proposes Amendment [9] to Schedule 1 Forms to insert after Clause 4(l)(j): <i>(Jl) if the development:</i></p>	<p>Require certification from Council in addition to the RMS in these circumstances or place an absolute cap on complying development applications involving more than 50 additional students i.e. a one-off complying development application with additional proposals requiring development consent.</p>

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	<p><i>(i) is for a purpose specified in clause 33(1)(Existing schools-complying development) of SEPP (Educational Establishments and Child Care Facilities) 2016, and</i></p> <p><i>(ii) will result in the school being able to accommodate 50 or more additional students,</i></p> <p><i>a certificate issued by Roads and Maritime Services certifying that any impacts on the surrounding road network as a result of the development are acceptable or will be acceptable if specified requirements are met,</i></p> <p>However the process does not include input and comments from the Local Traffic Committees and Traffic sections of the local Councils on impacts on local roads and parking. A large number of schools are located on local roads and development may impact adversely upon local traffic and parking arrangements. Traffic regulations within local areas may not be considered by RMS</p>	
Clause 40(1) Universities – development permitted without consent	<p>Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone</p>
Clause 40 (2) Existing universities – exempt development	<p>There are no assessment criteria to determine whether or not the development would require an alteration of transport or traffic arrangements.</p> <p>Clauses 40(2) (d) and (e) permit development without consent for 50% increases in gross floor area of individual buildings subject to</p>	<p>Assessment criteria should be provided to determine whether or not the development would require an alteration of transport or traffic arrangements.</p> <p>Amend the SEPP to include a floor space</p>

Reference	Concern	Recommendation
	a “cap” of 1:1 floor space ratio on sites less than 2000 sqm in area. There is significant potential for large increases in staff/student numbers and resultant impacts on traffic generation and car parking requirements within this cap. In addition, on sites greater than 2000 sqm, there is no cap. Developments can proceed provided they do not increase the gross floor area of buildings on the site (at any point in time) by more than 2000 sqm. This allows development creep and potential associated traffic impacts without appropriate assessment.	ratio cap for overall development on sites greater than 2000 sqm in area.
Clause 42 Existing Universities – exempt development	Bushfire impact on some forms of exempt development on bushfire prone land: 42(1)(a);(f);(h);(j);(l)	Consider inclusion of controls to minimise impacts of bushfire
	Controlling development impact on flood liable land	Consider inclusion of controls to minimise impacts of development on flood liable land
	<p>Controlling impact of exempt development on Native Vegetation and Waterways: Notably i.e.: Clause 42(1) (g) permits a recreation facility (outdoor), including a playing field.... if: the development does not involve the clearing of more than 2ha of native vegetation.</p> <p>As exempt development does not require expert assessment or certification, there is significant potential for damage to EECs as a result of this allowance.</p> <p>The impact of clearing vegetation on waterways should also be managed.</p>	<p>Suggested amendment of proposed native vegetation clearing threshold to state “if the development does not involve the clearing or more than 0.25 hectares of native vegetation.</p> <p>Also consider inclusion of controls to minimise impact on waterways such as establishing a threshold to ensure that development and associated clearing must be at least 40m from any waterway (natural).</p>
Clause 43 Existing universities –	Clauses 43(1) (d) and (e) permit development without consent for 50% increases in gross floor area of individual buildings subject to a “cap” of 1:1 floor space ratio on sites less than 2000 sqm in	Amend the SEPP to include a floor space ratio cap for overall development on sites greater than 2000 sqm in area.

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complying development	area. There is significant potential for large increases in staff/student numbers and resultant impacts on traffic generation and car parking requirements within this cap. In addition, on sites greater than 2000 sqm, there is no cap. Developments can proceed provided they do not increase the gross floor area of buildings on the site (at any point in time) by more than 2000 sqm. This allows development creep and potential associated traffic impacts without appropriate assessment.	
Clause 47 TAFE establishments – development permitted without consent	<p>Clause 47(2) (a): There are no assessment criteria to determine whether or not the development would require an alteration of transport or traffic arrangements.</p> <p>There appears to be no effective requirement to manage development creep and associated traffic generating development. As per Clause 47(2) (b) (ii) TAFEs could increase student and staff numbers by 10% every 12 months. Traffic impacts may become a major concern.</p>	Amend the SEPP to include a cap on the expansion of student and staff numbers based on a point in time.
Clause 49 Existing TAFE establishments – exempt development	Bushfire impact on some forms of exempt development on bushfire prone land: 49(1) (a) ;(j) ;(l).	Consider inclusion of controls to minimise impacts of bushfire.
	Controlling development impact on flood liable land.	Consider inclusion of controls to minimise impacts of flooding.
	<p>Controlling impact of exempt development on Native Vegetation and Waterways: Notably i.e.: Clause 49(1) (g) permits a recreation facility (outdoor), including a playing field if the development does not involve the clearing of more than 2 hectares of native vegetation.</p> <p>As exempt development does not require expert assessment or</p>	<p>Suggested amendment of proposed native vegetation clearing threshold to state “if the development does not involve the clearing of more than 0.25 hectares of native vegetation.</p> <p>Also consider inclusion of controls to minimise impact on waterways such as establishing a</p>

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	<p>certification, there is significant potential for damage to EECs as a result of this allowance.</p> <p>The impact of clearing vegetation on waterways should also be managed.</p>	threshold to ensure that development and associated clearing must be at least 40m from any waterway (natural).
	<p>Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone</p>
Clause 50 Existing TAFE establishments – complying development	There are no conditions to manage increases in staff/student numbers and resultant impacts on traffic generation / car parking provisions	Amend the SEPP to include a cap on the expansion of student and staff numbers based on a point in time.
Clause 50(3) – Development Standards for complying development	Noise – No controls are proposed to minimise noise impacts from recreational facilities (indoor /outdoor).	Amend SEPP to Include controls to minimise noise impacts e.g. maximum dB
	Front Setbacks – No front setback controls are proposed to minimise urban design impacts	Include front setback control similar to that proposed for universities in Schedule 3 (5).
	Bushfire impact on complying development on bushfire prone land:	Consider inclusion of controls to minimise impacts of bushfire.
	Flood Liable Land - Controlling development impact on flood liable land	Consider inclusion of controls to minimise impacts of development on flood liable land.

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	<p>Clause 50(3) (b) – Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone</p>
Clause 52 Development on land identified as coastal wetlands	Concern is raised that endangered or protected vegetation will be removed. A number of schools either have or back on to land identified as littoral rainforest or coastal wetlands.	Ensure protection of endangered or protected vegetation.
Schedule 1 – Exempt Development - general		
	Bushfire Protection Requirements	Include bushfire protection requirements for exempt development on bushfire prone land, notably i.e. carports; Fences; Sheds; Office-portable; Pergolas
	Flood Liable Land Requirements	Include flood liable land requirements for exempt development on flood liable land notably i.e. Carports; Fences; Sheds; Office-portable;
	Heritage Impact Requirements	Include heritage management requirements for exempt development relating to a heritage item or adjoining a heritage item
Schedule 2 – Schools - complying development		
2 Building height and	<p>Impact on residential areas:</p> <p>A proposed building height of 4 storeys – not exceeding 22m from</p>	A 45 degrees height plane with transitional height (maximum 3 storeys) is suggested for buildings adjacent to the boundary of R1 and

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	<p>ground level (mean) could have a significant impact on R1 and R2 zones. It is noted that many school sites across the Northern Beaches are within low density residential environments with maximum height limits typically of 8.5m.</p> <p>Additionally, the Complying Development process does not include assessment of views loss (notably water views in coastal areas) of adjoining developments or design impact on heritage items within the immediate vicinity of the proposed development.</p>	<p>R2 zones. A four storey limit is suggested for buildings which are further from the boundary.</p> <p>A further setback for 4 storey buildings should be considered consistent with the requirements of the Apartment Design Guide (12m).</p> <p>Where there would be potential views loss from neighbouring properties, the development should not be able to be assessed as complying development.</p> <p>Design consideration should be given to impacts on heritage items / conservation areas within the vicinity of the proposed development.</p>
3 Side and rear setback	<p>Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone</p>
7 Landscape	<p>Landscaping on the setback zone should be a <u>minimum</u> of 3m wide and must not include footpath/pedestrian links. These links should be constructed adjacent to the built form (for natural surveillance).</p>	<p>Amend landscaping requirement to ensure footpaths do not encroach on landscaped buffer.</p>
9 Earthworks	<p>Geotechnical hazards needs to be considered and addressed</p>	<p>Include controls for consideration and</p>

Reference	Concern	Recommendation
		assessment of geotechnical hazards
12 Flood control lots	<p>Council has previously raised concerns regarding development being approved through complying development contrary to the controls for flood control lots. These concerns are heightened given the additional uses being allowed to access the complying development process.</p> <p>A school has large numbers of people and can cause a range of issues in flood events. The control should be amended to clearly indicate that where the area of a lot has <i>any</i> flood affectation it cannot be developed through complying development.</p>	Amend the control to clearly state that where the area of a lot has <i>any</i> flood affectation it cannot be developed through the complying development process.
Noise	Noise – No controls are proposed to minimise noise impacts on adjoining residential land from i.e. gym, indoor sporting facility or hall.	Include controls to minimise noise impacts from gyms, indoor sporting facilities and halls, notably regarding adjoining residential land e.g. maximum dB.
Front Setbacks	Front Setbacks – No front setback controls are proposed to minimise urban design impacts	Include front setback control similar to that proposed for universities in Schedule 3 (5).
Schedule 3 – Universities – complying development		
2 Height	Concern that the Complying Development process does not allow assessment of views loss, heritage impacts, and compatibility with the desired future character of the local area, particularly given that buildings can be up to three storeys / 15m height	Include controls to manage impacts on views loss, heritage, and compatibility with desired character of area.
3 Maximum gross floor area	This control would enable multiple new buildings and additions to buildings of up to 2000sqm in area without any assessment of potential impacts, particularly traffic impacts. If and LEP does not have an FSR or GFA control there is no limit to potential development.	Amend the SEPP to include a cap for overall development on any site for this type of complying development.
4 Side and rear setback	Many residential areas are zoned E4 Environmental Living under the Pittwater LEP. Minimum 1 metre setbacks from boundaries with this zone are not appropriate. The SEPP should be amended	Amend the SEPP to require 5 metre setbacks for development on land adjoining the E4 Zone, consistent with setbacks to residential

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	<p>to require setbacks to the E4 Zone consistent with proposed setbacks to residential zones i.e. 5 metres.</p> <p>Concern is also raised regarding providing appropriate development setbacks to <i>existing</i> residential dwelling houses in Rural Zones and the E3 zone.</p>	<p>zones.</p> <p>Amend the SEPP to require setbacks greater than 1 metre to existing residential dwelling houses in Rural Zones and the E3 zone.</p>
10 Landscape	Landscaping on the setback zone should be a <u>minimum</u> of 3m wide and must not include footpath/pedestrian links. These links should be constructed adjacent to the built form (for natural surveillance).	Amend landscaping requirement to ensure footpaths do not encroach on landscaped buffer.

Draft Child Care Planning Guidelines

Reference	Concern	Recommendation
1.1 About this Guideline	Typo error – second paragraph reference to Clause 23(2) (c). Shouldn't this be 23(2) (e)?	Amend typo
1.2 Structure of the Guideline	<p>The Draft SEPP states that a consent authority 'must' take Part 2 of the Guidelines into account when assessing a development application.</p> <p>Concern is raised that the Department of Education may not grant a Service Approval in circumstances where Council has granted development consent for a variation to a specification in Part 2.</p>	Clarify this issue within the guideline/SEPP - currently ambiguous.
2.2 Indoor Space	<p><i>Verandahs as Indoor Space</i></p> <p>For a verandah to be included as indoor space, any</p>	Include regulation requirement that a verandah is to have a solid roof and floor to be considered as

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	opening must be able to be fully enclosed during inclement weather. The regulations also require a verandah to have a solid roof and floor to be considered as indoor space.	indoor space.
	<p><i>Storage Requirements</i></p> <p>The requirement of a minimum of 0.3 cubic metres per child of external storage space and a minimum of 0.2 cubic metres per child of internal storage space is too prescriptive. Centres should be able to choose storage capacity that suits the site and meets safety standards as well as the need for children to learn to respect and care for equipment.</p> <p>Provision of storage for prams, bikes and scooters belonging to families should be optional.</p>	Amend requirements for storage to make less prescriptive.
2.3 Ventilation and Natural Light	<p><i>Ventilation</i></p> <p>Depending on the building and climate other means of avoiding extremes of temperature should be acceptable including ceiling fans. This requirement seems to contradict the Guideline on Natural Ventilation.</p> <p>The requirements that a window have a glass area not less than 10% of the floor area of the room is too prescriptive, particularly for smaller services or where smaller rooms are in use. It may be necessary to install several adjoining windows to achieve adequate natural light or use another configuration to achieve ventilation between rooms.</p> <p>Similarly the requirement for windows to have unobstructed openings equal to 5% of the floor area is too prescriptive.</p>	Amend requirements to make less prescriptive.

Reference	Concern	Recommendation
	<i>Ceiling Heights</i> The requirement that natural lighting should provide a lighting level to 200 lux to all rooms is too prescriptive.	Consider amendment to rectify concern.
2.5 Administrative Space	The requirement that an Administrative space has space for a desk, at least two chairs and lockable storage cabinets and filing cabinets does not take into account the varying nature of child care services. The recommendation that a portion of a reception desk is at a lower level for children and people with a disability is a good example of best practise in design.	Consider amendment to rectify concern.
2.6 Toilets	The requirement that a properly constructed nappy changing bench not less than 0.9 square metres at a height of between 850mm and 900mm is very prescriptive. The requirement to provide storage of specific dimension for storage of steps does not take into account the availability of nappy changing facilities that can be raised and lowered enabling a child to access the table without steps.	Consider amendment to rectify concerns.
2.7 Outdoor Environment	<i>Shade</i> The requirement that outdoor play areas should have solar access throughout the year to at least 30% of the ground area is positive but does not consider varying climate conditions. Similarly, the requirement that 30% of the play area should be in shade does not consider climate conditions. The recommendation that no more than 60% of outdoor space	Consider amendment to rectify concerns.

Reference	Concern	Recommendation
	<p>is “covered” is strongly supported.</p> <p><i>Verandahs as Outdoor Space</i></p> <p>The requirement that a verandah area be used as covered outdoor space must have a ceiling height of 2.1m is restrictive.</p>	
2.8 Fencing	<p><i>Front Fencing</i></p> <p>This section regarding front fencing in many ways is duplicated via Part 3E design criteria for front fencing (p43) however this section allows for a front fence on a sloping site up to 1.8m height which conflicts with front fence requirements on p43.</p> <p>This section should more clearly delineate between fencing requirements around spaces that are to be used as outdoor space for children under care, and fencing requirements along the front boundary of properties.</p> <p>With regard to fencing requirements along the front boundary of properties, requirements outlined on p43 are more clearly defined and it is recommended these requirements be used.</p> <p>Concern is raised with regard to the need to provide adequate fencing height provisions for outdoor spaces within front setback areas to protect children from passing ‘stranger danger’.</p>	<p>Remove duplications and contradictions between the front fence requirements under this section and those on p43.</p> <p>Amend this section to more clearly delineate between fencing requirements around spaces that are to be used as outdoor space for children under care, and fencing requirements along the front boundary of properties.</p> <p>With regard to fencing requirements along the front boundary of properties, utilise requirements outlined on p43 instead of requirements outlined in this section.</p> <p>Consider what fencing requirements are needed to protect children in outdoor play areas within front setback areas from passing ‘stranger danger’. I.e. a 1.2m fence height may not provide enough protection.</p>
2.10 Emergency and Evacuation	<p><i>p28.</i></p> <p>Recognition that evacuation from multi storey and mixed use developments may require additional safety measures is a positive and welcome guideline.</p>	<p>Additional guideline should be provided regarding evacuation of children in multi storey buildings.</p>

Reference	Concern	Recommendation
	<p><i>p28. Fire stairs</i></p> <p>When child care centres are not on ground level, it is difficult to see how children under 2 years could be quickly and safely evacuated down sets of stairs.</p> <p>The recommendation that a 125mm opening between rails on stair balustrades in child care services instead of the 145 mm in the Australian Building code is valued.</p> <p>The recommendation that a low handrail may also be provided is valued.</p> <p>The recommendation that a separate evacuation route be provided for children in a multi-use building is mandatory. Similarly, consideration of a separate safe haven is essential.</p>	
2.13 Best Practice Example	<p>Very few new childcare centres are single storey in the Northern beaches LGA. More best practice examples should be added, especially ones in multi-storey buildings. They should also include the measurements that the current example has (i.e. amount of open space in square metres).</p> <p><i>p32. Typical space requirements for different size centres</i></p> <p>The typical space sizes should be regarded as a recommendation only, this level of detail is too prescriptive.</p>	<p>Include best practice example for multi-storey buildings.</p> <p>p32 The typical space sizes should be regarded as a recommendation only, this level of detail is too prescriptive.</p>
3A Location	Location of Childcare Development – additional considerations recommended.	In relation to Context based Criteria (Siting of Development) it is suggested that the Guideline consider referencing sites at or adjacent to established schools, churches, community

Reference	Concern	Recommendation
		facilities subject to adequate traffic and parking services. Also, preference may be given to sites that are flat or gently sloping for the development of Childcare Centres. Both these considerations are currently matters contained in the Manly DCP.
3B Building Envelopes – Heights and Setbacks	Maintain character of surrounding area.	Design criteria 3B and Point 4. This should be amended to 'relevant DCP setback'
3E Public Domain Interface	<p>Design Criteria 3E</p> <ul style="list-style-type: none"> - Objective 2 – assuming it should say “.....with an average no greater than 1.7m on sloping sites” - Point 2 and Point 7 are the same - Concern is raised regarding what fencing requirements are needed to protect children in outdoor play areas within front setback areas from passing 'stranger danger'. i.e. a 1.2m fence height may not provide enough protection. 	<p>Amend as required.</p> <p>Consider what fencing requirements are needed to protect children in outdoor play areas within front setback areas from passing 'stranger danger'. i.e. a 1.2m fence height may not provide enough protection.</p>
3F Pedestrian and Vehicle Access	<p>The criteria does not take into account the Roads and Maritime Services Guidelines which stipulate parent parking separate to staff parking.</p> <p>Impact of parking and pedestrian safety in the immediate vicinity of the site has not been considered.</p>	Amend as required.
3G Orientation	<p>3G Point 5</p> <p>The proposed overshadowing controls are not sufficient.</p> <p>The main private open space of adjoining dwellings and the main private open space of any adjoining dwellings should receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st.</p>	Amend as required.

Reference	Concern	Recommendation
	<p>Windows to principle living areas of adjoining dwellings should receive a minimum of 3 hrs of sunlight between 9am and 3pm on the winter solstice (June 21).</p> <p>3G Point 6 A point here should be added for consideration of the impacts of childcare centres above ground floor. This includes issues such as noise and privacy impacts to neighbouring properties</p>	
3I Acoustic Privacy	<p>The criteria that at least 50% of the outdoor play area should be usable for 70% of the operational time does not take into account the NQF requirement that services need to provide flexible use of outdoor spaces.</p> <p>Element 3.1.3 of the NQF requires facilities to be designed or adapted to ensure access and participation by every child in the service and to allow flexible use, and interaction between indoor and outdoor space. Limiting outdoor play to 70% of operational time is an unacceptable limit to use of outdoor space choice and quality of learning experiences.</p>	Amend as required.
3J Noise and Pollution	Noise impacts of waste collection/deliveries outside of hours are a major concern for residential areas.	Include provisions to minimise noise impacts of waste collection/deliveries outside of hours.
P59-60. Documentation accompanying the development application	<p>The requirement to provide the location of any associated children's services will be difficult to achieve. The current information for services already approved will be sourced from ACECQA. If there are any other DA's in progress, this information will not able to be captured <i>this is in the Regulations Chapter 2, part 2.2, Division 1, Regulation 25, 1 b (viii)</i></p> <p>The requirement that an emergency and evacuation floor plan</p>	Amend as required.

Reference	Concern	Recommendation
	be provided is essential.	
Appendix 2 National Early Childhood Education and Care Checklist	The Self-Assessment Checklist provided to accompany an application is quite general and does not reflect the prescriptive nature of the Guidelines in Part 2.	Consider amendment to reflect requirements of Part 2.
Appendix 3 Checklist of Specialist Studies or Technical Considerations in Development Applications	Minimising acoustic impacts on surrounding development	The proposed Checklist of Specialist Studies should include a requirement for an Acoustic Assessment in instances where the applicant is seeking exemption from any aspect of the Acoustical Privacy Criteria in the Guideline.

General Additional Feedback for Consideration– Draft Child Care Planning Guidelines

1. In areas without a regulated town water supply, a requirement for regular testing of tank water for chemical residue (from roof) and bacterial water quality of stored roof water.
2. Where food is prepared on site, a requirement for the appointment of a Food Safety Supervisor (as required for other food premises where potentially hazardous food PHF is being prepared)
3. For larger establishments the need for the food preparation kitchen to comply with AS 4674-2004 Design, construction and fit-out of food premises, and for the smaller home based care domestic kitchen the need for at least a double bowl sink (with warm water soap and towel) so one sink can be dedicated to hand washing a critical matter in food hygiene.
4. In areas/premises with on-site waste water management there will need to be a review and ensure the capacity of the system to cope with the additional load as well as importantly ensuring grassed “play areas” are not located in the treated water waste application area. Also that mauve “recycled water” taps not accessible and locked off in child accessible areas.
5. Potential drowning is an issue because water features and dams, do not come under the current pool fencing requirements, because these are not classed as swimming pools.
6. In mosquito prone areas the need for requirements for adequate mosquito proofing/control to reduce vector borne disease.

7. Of significance is the issue of noise to neighbours – Complaints are received by Council from industrial, commercial and residential neighbours of child care facilities. It is noted that Pp 48 'Acoustic Privacy' seems to focus predominantly on managing impacts for residential neighbours.
8. Disturbance from "screaming" children can be a major issue to neighbours ranging from domestic to office and factory workers. Although there are acoustic guidelines they are currently not enforceable, nor are compliance with the Industrial Noise Policy for commercial premises. This type of noise is not defined as offensive noise under the Protection of the Environment Operations Act 1997 and needs to be specifically addressed in design requirements as well as enforcement procedures.

NSW Code of Practice for Part 5 Activities for Registered non-government schools, February 2017

It is recommended that the Department of Planning and Environment establish an audit process to ensure that non-government schools are effectively applying the new Code. It is not appropriate for Council to have to monitor and respond to complaints about development which occurs outside the development assessment process as a result of government policy.