

NSW Business Chamber Child Care SEPP

Submission to the Draft Education and Child Care SEPP

April 2017

Overview

The NSW Business Chamber welcomes the opportunity to comment on the *Draft Education and Child Care State Environmental Planning Policy* (the SEPP).

The NSW Business Chamber is one of Australia's largest business support groups, with a direct membership of more than 20,000 businesses, providing services to over 30,000 businesses each year. Tracing its heritage back to the Sydney Chamber of Commerce established in 1825, the NSW Business Chamber works with thousands of businesses ranging in size from owner operators to large corporations, and spanning all industry sectors from product-based manufacturers to service provider enterprises.

For more information contact:

Luke Aitken
Senior Manager, Policy
NSW Business Chamber
Tel: 02 9458 7582
Email: luke.aitken@nswbc.com.au

Introduction

The Chamber recognises the significant role the availability of quality and affordable child care has in both supporting diversity within our labour market and in the personal, social and educational development of young people.

As recognised in the ***NSW Intergenerational Report 2017-18***, education services (schools, early childhood and vocational education and training) will represent 20 per cent of total state expenses by 2055-56ⁱ. Growth in demand for these services will also be met through private sector investment and the Chamber supports generally measures to reduce the complexity in developing and planning for new schools and child care centres.

The Chamber appreciates that one of the key drivers for the update in the SEPP is to reduce the level of variance between local governments in the planning and zoning regulations they impose on child care providers to build high quality centres. Restrictive or unnecessary council requirements creates uncertainty and can have a significant impact on the supply of new child care in a time where there is both strong and increasing demand for child care.

As was recommended by the Productivity Commission in its ***Childcare and Early Childhood Learning Inquiry Report*** 2014:

7.14

Local governments should adopt leading regulatory practices in planning for ECEC (Early Childhood Education and Care) services. In particular, local governments should:

- *use planning and zoning policies to support the co-location of ECEC services with community facilities, especially schools*
- *use outcomes based regulations to allow services flexibility in the way they comply with planning rules, such as in relation to parking*

- *not regulate the design or quality of any aspect of building interiors or children's outdoor areas within the service property, where such regulation unnecessarily*
- *duplicates or extends the requirements of the National Regulations or other standards such as the Building Code of Australia*
- *not impose regulations that interfere with the operation of the ECEC market, such as by restricting the maximum number of permitted childcare places in a service*
- *provide clear guidelines for the assessment of development proposals in relation to ECEC services, and update these guidelines regularly.*

and

7.15

State planning departments should, as in Victoria, develop flexible standard planning provisions that can be applied across local governments to ensure some level of consistency; and scrutinise amendments to local planning schemes that might seek the introduction of different standards, to guard against potentially costly requirements being imposed.ⁱⁱ

While the Chamber is in broad support of these recommendations and welcomes the Department undertaking amendments to simplify planning provisions for child care, we believe the draft SEPP, with its consequential proposal to expand zonings where child care facility development is permitted will unnecessarily increase exposure of young children to risk and have the effect of sterilising much needed industrial lands across NSW.

Inconsistencies in advice

The consultation documents provided for the Draft SEPP included a range of FAQ documents as well as the draft instrument. However, from its review of these documents the Chamber believes there is a significant inconsistency in what is stated as being the intended effect of these reforms.

The ***Explanation of Intended Effect*** document states that related amendments to LEPs will allow for child care facilities to be additionally permitted in R2 Residential and IN2 Light Industrial zones **only**:

Related amendments to LEPs will see centre-based child care facilities permissible on R2 Low Density Residential and IN2 Light Industrial zoned land, permitting child care facilities on an additional 15,700 hectares of land. To support these changes, the proposed SEPP will set out additional controls around child care developments in industrial zones to ensure there are no adverse impacts on the child care facility or surrounding land uses, including those related to health, safety or planning matters.

While the Chamber holds concerns in terms of development of these facilities in industrial zones generally, we strongly oppose any expansion of these developments into Zone IN1 General Industrial as suggested in the Public Consultation Draft *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*:

22 Centre-based child care in Zone IN1 or IN2—additional matters for consideration by consent authorities

(1) The object of this clause is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting centre-based child care on land in Zone IN1 General Industrial or Zone IN2 Light Industrial.

(2) The consent authority must consider the following matters before determining a development application for development for the purpose of centre-based child care on land in Zone IN1 General Industrial or Zone IN2 Light Industrial:

(a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,

(b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,

(c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.

(3) The matters referred to in subclause (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of centre-based child care.ⁱⁱⁱ

We note that the consultation draft *Standard Instrument (Local Environmental Plans) Amendment Order (No 2) 2016* proposes that only Zones R2 and IN2 should be amended to reflect the permissibility of “Centre-based child care” within these zones. Clarification from the Department that there is no intention to expand child care centres into Zone IN1 should be provided as a matter of priority.

Encroachment on Industrial Lands

The encroachment of non-industrial uses, including residential uses on industrial land has been a prevailing and increasing trend over the past two decades. With the absence of a robust planning framework that protects and preserves industrial uses in their current location, industrial land is under continual threat.

While we appreciate the significant demand for child care services in Sydney, in some regional centres of NSW demand is less strong and from time to time, services available have outstripped demand^{iv}. The creation of a SEPP to encourage development of child care centres within industrial zones therefore raises concerns in relation to the potential sterilization of essential enterprise and employment as a result of state wide policy actively encouraging the development of these centres.

Industrial zones are already being impacted by the proximity of new residential development. A Chamber member in Coffs Harbour has previously advised that as a result of new residential development in proximity to his business, truck movements have been significantly curtailed and he has been required to put in place noise abatement measures at his own cost. This particular site has been used for more than 30 years and is a key employment area for the entire Coffs district.

With level land for industrial development in short supply and with another block of residential development scheduled nearby, this business is seriously considering moving its operations outside of the region. This example sheets home that while providing residential development with access to services such as child care is vitally important, it should not come at the expense of economic development which is just as vital in building vibrant healthy communities.

The Chamber notes that section 22 of the public consultation draft includes issues which must be considered by the consent authority prior to approving a development of a child care centre on land zoned industrial. We believe an additional consideration should be included under this provision:

(d) whether the proposed development will impact on future industrial developments compatible with the zoning

Such an addition would ensure that due consideration is given to the potential and probable impacts of the development on the future operations and opportunities from other land uses compatible with the zone.

ⁱ <https://www.treasury.nsw.gov.au/sites/default/files/2017-02/3.%20Our%20Growing%20Demand%20for%20Services.pdf>

ⁱⁱ <http://www.pc.gov.au/inquiries/completed/childcare/report/childcare-overview.pdf>

ⁱⁱⁱ <http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/draft-state-environmental-planning-policy-educational-establishments-and-child-care-facilities-2017.ashx>

^{iv} <http://www.abc.net.au/news/2014-06-25/childcare-surplus-goulburn/5549058>