



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

To the Department of Planning and Environment (DP&E)

April 2017  
File No: 17/04009

## **1. GENERAL COMMENTS**

This submission outlines Fairfield City Council's response to the proposed draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (draft SEPP).

The submission provides comments and recommendations regarding the draft SEPP and the Child Care Planning Guidelines (CCPG). In general, there are certain aspects of the draft SEPP that are considered positive such as the CCPG.

However, the imposition of non-discretionary development standards for child care centres and the expansion of exempt and complying provisions (namely the manner of the provisions) for educational establishments raises some concerns.

The exempt and complying provisions of the draft SEPP fail to adequately address local issues that affect the Fairfield Local Government Area (LGA) where issues such as limited road and sewerage infrastructure within its rural areas. It is also considered that these provisions may introduce land use conflicts that cannot be adequately considered under the proposed provisions of the draft SEPP.

These issues will also be relevant within the urban context as most schools in the Fairfield LGA are located within land zoned R2 low density residential, where traffic, acoustic amenity and privacy are main concerns.

It is considered that that some educational establishment development are best dealt with within the local planning context as there are matters that are likely to be more thoroughly addressed under local provisions than those proposed by the draft SEPP.

The NSW Planning system is currently undergoing a period of review and change. Proposed amendments to the NSW Planning Legislation include proposed amendments to the community participation provisions to improve engagement with the community at the strategic level.

The release of the draft SEPP and the provisions relating to prescribed zones, expansion of exempt and complying development provisions are considered inconsistent with the proposed changes to NSW Planning Legislation. As in some of these instances the community will not be provided with an opportunity to participate.

It is acknowledged that delays in processing times have an impact on the supply of childcare places and places within schools and any review and changes to the planning system that improves the efficiency in the processing of these types of applications is supported.

Provisions of the draft SEPP, such as the expansion of exempt and complying provisions will be seen as a means to reduce the level of community involvement in matters that concern them and further reduce the role of local government as a decision making authority in matters that affect its community and therefore those particular aspects of the draft SEPP are not supported.

## 2. KEY ISSUES

The Fairfield LGA contains a large number of educational establishments being predominantly schools and a TAFE. It also contains a large number of Child Care Centres both for private and not for profit.

In some instances, development within these existing facilities under the provisions of the draft SEPP has the potential to impact on those localities.

The following is a list of key issues with comments regarding specific provisions included as **Appendix A**.

### Educational Establishments

- Expanding complying development provisions allowing for existing schools to develop buildings to a maximum height of 22 metres, which is equivalent to a 6 or 7 storey building. As mentioned earlier in this submission, most schools within the Fairfield LGA are located in areas zoned R2 Low Density Residential where generally a maximum height of 9 metres applies.

Whilst this height limit is appropriate for some schools within the LGA based on their individual locational characteristics, it is considered inappropriate in other instances that where issues such as impacts on adjoining residential development may not be adequately addressed under the provisions of the draft SEPP.

The original intent of exempt and complying development was for development that had minimal impact. Some provisions of the draft SEPP cannot be considered as having minimal impact such as the 22 metre height limit discussed above.

- Reducing the role of Local Government by reducing the threshold for State Significant Development for educational establishments to \$20 million with other development below this threshold to be determined by the relevant Regional Panel.
- Declaring non-government schools as 'public authorities' which will allow for self-assessment of their own proposals. Whilst Council notes the intent of this approach, it is considered that this approach has the potential to create issues relating to how matters such as compliance will be managed where there are breaches in the provisions of the SEPP.
- Proposal to allow only Council Certifiers to issue complying development certificates. Whilst this proposal will allow for some level of Council involvement, the area of concern relates to the provisions provided by the draft SEPP such as the 22 metre height limit discussed above.
- Provisions relating to development in adjoining zones, without the specification of a numerical standard, the provisions of the draft SEPP have the potential to create pseudo zones and reduce the level of transparency to the community. This is seen as a key issue, especially if changes are introduced that allow non-government schools to be declared as 'public authorities' which may see local planning provisions

such as zoning under LEP's eroded.

- Certificate of compliance from the Roads and Maritime Services (RMS) in relation to traffic for school developments. The main issue relates to cumulative impacts, i.e. are there measures in place for the RMS to obtain a clear picture of the traffic characteristics of a particular school in a particular locality, will the RMS process involve any referrals to Council Traffic Engineers for comment? Will the cumulative impacts of schools within close proximity to one another be taken into consideration?

#### Child Care Centres

- Expansion of exempt and complying provisions to allow for school-based childcare to be undertaken as exempt development. As mentioned earlier in this submission, many schools within the Fairfield LGA are located within land zoned R2 Low Density Residential. Whilst it is considered that this land use is similar to a school and utilises land that is generally not utilised between 4pm and 8am. However, amenity issues such as hours of operation need to be considered where hours of operation are outside normal school hours and directly adjoin residential land uses.
- Introduction of non-discretionary measures within the draft SEPP. Concern is raised regarding the introduction of non-discretionary development standards relating to location.

It is important to note that Council's existing provisions relating to preferred locations for childcare centres are not there to discourage the establishment of these land uses. Its main aim is to ensure that this vital land use is located in areas where issues such as traffic management, safety of children and other issues relating to amenity can be adequately addressed. The provisions of the draft SEPP have the potential to cause issues where potential operators seek to undertake this land use where they cannot adequately meet the requirements of the draft SEPP and CCPG or that may result in an outcome that may not be financially viable to the operator.

### **3. OTHER ISSUES**

#### **Infrastructure Provisions in Rural Areas**

Under Fairfield LEP 2013, the RU4 Primary Production Small Lots, RU2 Rural Landscape and RU1 Primary Production zones apply to a large part of the LGA located to the west of the city.

#### Sewerage

The draft SEPP prescribes these zones for School and TAFE developments. These forms of educational establishments are currently operating within these areas. However, an issue that arises from these types of developments is servicing, such as disposal of sewerage. Of concern is the location of schools adjoining land that is used for food production and the potential for conflicts with schools and the method they use for sewer disposal (such as land based disposal systems) and the potential for cumulative impacts on the land within catchment areas.

## Traffic

Traffic management in the rural areas of Fairfield is one main issue that needs to be addressed whenever land uses such as child care centres and educational establishments are proposed. The road network in the rural areas of Fairfield is not adequately equipped for land uses proposing large numbers of pupils where the main form of transport is via private vehicle. Detailed assessment of these types of development usually occur, while the draft SEPP does not include sufficient provisions to deal with these issues and the potential for cumulative impacts of these land uses on the local road network.

## **Childcare Space Affordability**

The Explanation of Intended Effect provided with the consultation material implies that delays in the approval process for centre base child care centres are a reason for pressures for shortages in childcare places.

Whilst limited spaces have impacts on affordability of places, these cannot be solely attributed to the planning system as there are other factors such as the location of a childcare centre, the type of centre and whether or not it is a private or a not for profit run centre.

The aims of the draft SEPP make no reference to affordability. The draft SEPP includes provisions under Part 1 (7) for a timeframe for the review of the policy. This mechanism should also be utilised to test whether approval statistics for childcare centres have improved and the effect this has had on affordable childcare spaces.

## **4. TECHNICAL ISSUES**

- The draft SEPP lists RU1 as a prescribed zone. This is not supported as the RU1 Primary Production zone has potential of have land uses (extractive industries, open cut mining, intensive livestock agriculture, etc.) which have potential for significant land use conflict.

However, should the Department proceed with this approach, it is recommended that the Standard Instrument should be amended to include educational establishment as a mandated use under zone RU1 Primary Production to ensure consistency with the draft SEPP.

- The Fairfield Local Environmental Plan (LEP) 2013 list childcare centres as a permissible land use in zone RU4 Small Lot Primary Production and RU2 Rural Landscape. The Local Order Environmental Plan 2006 does not reflect the RU4 and RU2 zones in Schedule 1 [2]. It is unclear if the Local Order Environmental Plan 2006 Amendment will make the necessary changes to ensure that there is no conflict between the Fairfield LEP 2013 and SEPP as a result of the new Child Care centre definitions.

## **SUMMARY CONCLUSION**

The draft SEPP seeks to provide a unified framework for the assessing of Childcare Centres and together with the associated Childcare Centre Planning Guideline is seen as a positive step.

Whilst the draft SEPP does not remove the role of Council as a consent authority for most Childcare developments, it does diminish the role of Council by the inclusion of non-discretionary development standards. The main aim of standards such as locational and site characteristics requirements are there to ensure that there is greater transparency for proponents to select suitable sites for childcare centre development. These requirements should not be seen as preventative measures but rather requirements that facilitate the development of high quality childcare facilities whilst also minimising potential impacts to the area in which they are located.

The draft SEPP effectively removes Council as a consent authority for educational establishment development and this is not supported as Council is best placed to address these types of developments within the local planning context. The provisions of the draft SEPP fail to provide adequate provisions to minimise the potential for land use conflicts, especially in the rural setting in the Fairfield LGA as well within the urban areas.

It is recommended that the draft SEPP and any associated guidelines take into account issues raised during this consultation period and that Council's be given an additional opportunity to review the proposed changes once these issues have been considered by the DP&E.

Council considers that the adoption of the draft SEPP in its current form is likely to result in significant impacts in certain localities as a result of development facilitated by the current provisions of the draft SEPP.

## APPENDIX A - SPECIFIC COMMENTS ADDRESSING PROVISIONS OF THE DRAFT SEPP

Provisions of the draft SEPP	Council Officer Comments
<b>Part 1 Preliminary</b>	
<b>7 Review of Policy</b>	This provision should also include review of documents that have been specifically drafted for this SEPP such as the Child Care Planning Guideline to ensure that those provisions remain relevant and having their intended effect.
<b>Part 3 Early childhood education and care facilities—specific development controls</b>	
<b>21 Centre-based child care—matters for consideration by consent authorities</b> <b>The consent authority:</b>  (a) must take into consideration Part 2 of the Child Care Planning Guideline, and (b) may take into consideration Part 3 of the Child Care Planning Guideline, before determining a development application for development for the purpose of centre-based child care.	<p>Part B of this clause states that a consent authority <u>may</u> take into consideration Part 3 of the CCPG.</p> <p>However, clause 24(1)(m) also specifies that Council DCP provisions have no effect for any matter referred to in the CCPG</p> <p>Clarification is required whether Council can include local provisions such as specifying roads that it considers as busy roads that are not classed as classified roads.</p>
<b>23 Centre-based child care—non-discretionary development standards</b>  (a) location—the development may be located at any distance from an existing or proposed early childhood education and care facility, (b) site area, site coverage and site dimensions—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 any allotment depth,	<p>The main intent of location provisions mainly relate to the management of traffic impacts and other impacts to the amenity of the locality, especially in residential areas.</p> <p>Concern is raised regarding the potential for cumulative impacts that may be attributed to the removal of locational requirements which together with the removal of any caps on numbers on a particular locality. Especially during pick and drop off times.</p> <p>The provisions of the draft SEPP have the potential to cause issues where potential operators seek to undertake this land use where they cannot adequately meet the requirements of the draft SEPP and Child Care Planning Guideline or that may result in an outcome that may not be financially viable to the operator. It is recommended that the Childcare Planning Guidelines include provisions or example schemes (such as those in the Apartment Design Guide) to help potential operators in selecting suitable sites.</p>
<b>25 Mobile child care—exempt development</b>	This provision should limit this type of childcare use to not for profit organisations. I.e. such as Council run mobile activity centres.

Provisions of the draft SEPP	Council Officer Comments
	<p>Or amend the definition of mobile child care to include operated by a not for profit organisation.</p> <p>Alternatively 'operated by or on behalf of a public authority.</p>
<p><b>26 Emergency relocation of early childhood education and care facility—exempt development</b></p>	<p>It is considered that these provisions are too broad.</p> <p>These provisions should be expanded to ensure that the amenity of any adjoining residential dwellings is not significantly impacted in instances where a building adjoins or is in a residential area.</p> <p>These provisions should be expanded to exclude co-locating of uses in residential areas such as dual occupancies, semi-detached dwellings, battle-axe allotments etc.</p> <p>These provisions should be expanded to ensure that any relocation of centres should not be located in areas where it's inappropriate to have these centres such as in high risk areas such as flood control lots, adjacent to hazardous industries etc.</p>
<p><b>Part 4 Schools-specific development controls</b></p>	
<p><b>Clause 29 Schools-development permitted with consent</b>  (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone:</p> <p>(b) development for the purpose of the expansion of an existing school—on land adjacent to land within the boundaries of an existing school.</p>	<p>The intent of this clause is noted. The use of the term 'adjacent land' is too broad, suggest this clause be similar to model clause 5.3 <i>Development near zone boundaries</i> as provided under by <i>Standard Instrument—Principal Local Environmental Plan</i>.</p>
<p><b>30 Schools—development permitted without consent</b></p> <p>(2) However, subclause (1) applies only to development that:</p> <ul style="list-style-type: none"> <li>(a) does not require an alteration of transport or traffic arrangements,</li> <li>and(b) in the case of development referred to in subclause (1) (a)—does not allow for an increase in: <ul style="list-style-type: none"> <li>(i) the number of students the school can accommodate, or</li> </ul> </li> </ul>	<p>Clarification required regarding this provision in terms of the potential for cumulative impacts as the result of increases in staff numbers, i.e. does this provision allow for an incremental increase in numbers in subsequent 12 month periods.</p>



Provisions of the draft SEPP	Council Officer Comments
<p>(ii) the number of staff employed at the school, that is greater than 10% (compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development).</p>	
<p><b>31 Notification of carrying out of certain development without consent</b>  (2) Before development to which this clause applies is carried out, the proponent of the development must:</p> <p>(a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land,</p>	<p>Notification should also include owners of adjoining land not just the occupiers.</p>
<p><b>32 Existing schools—exempt development</b>  (1) Development for any of the following purposes is exempt development if it is in connection with an existing school and complies with any requirements in this subclause that apply to the development:</p> <p>(d) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,</p>	<p>Clarification is required regarding distance from any fence, is this boundary fence to adjoining land? Play equipment 1.2 metres from a boundary may result in acoustic and privacy impacts on adjoining land in the residential context.</p>
<p><b>Part 5 Universities—specific development controls</b></p>	
<p><b>39 Universities—development permitted with consent</b>  (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone:</p> <p>(b) development for the purpose of the expansion of an existing university—on land adjacent to land within the boundaries of an existing university.</p>	<p>The intent of this clause is noted. The use of the term ‘adjacent land’ is too broad, suggest this clause be similar to model clause 5.3 <i>Development near zone boundaries</i> as provided under the <i>Standard Instrument—Principal Local Environmental Plan</i>.</p>
<p><b>41 Notification of carrying out of certain development without consent</b>  (2) Before development to which this clause applies is carried out, the proponent of the development must:</p>	<p>Notification should also include owners of adjoining land not just the occupiers.</p>

Provisions of the draft SEPP	Council Officer Comments
(a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land	
<b>42 Existing universities—exempt development</b> (1) Development for any of the following purposes is exempt development if it is in connection with an existing university and complies with any requirements in this subclause that apply to the development: (d) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,	Clarification is required regarding distance from any fence, is this boundary fence to adjoining land? Play equipment 1.2 metres from a boundary may result in acoustic and privacy impacts on adjoining land zoned residential.
<b>Part 6 TAFE establishments—specific development controls</b>	
<b>46 TAFE establishments—development permitted with consent</b> (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone: (b) development for the purpose of the expansion of an existing TAFE establishment—on land adjacent to land within the boundaries of an existing TAFE establishment.	The intent of this clause is noted. The use of the term ‘adjacent land’ is too broad, suggest this clause be similar to model clause 5.3 <i>Development near zone boundaries</i> as provided under the <i>Standard Instrument—Principal Local Environmental Plan</i> .
<b>48 Notification of carrying out of certain development without consent</b> (2) Before development to which this clause applies is carried out, the proponent of the development must: (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land	Notification should include owners of adjoining land.
<b>49 Existing TAFE establishments—exempt development</b> (1) Development for any of the following purposes is exempt development if it is in connection with an existing TAFE establishment and complies with any requirements in this subclause that apply to the development: (d) play equipment where adequate	Clarification is required regarding distance from any fence, is this boundary fence to adjoining land? Play equipment 1.2 metres from a boundary may result in acoustic and privacy impacts on adjoining land zoned residential.

Provisions of the draft SEPP	Council Officer Comments
<p>safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,</p>	
<p><b>50 Existing TAFE establishments—complying development</b></p> <p>(3) The following are the development standards for complying development under this clause:</p> <p>(b) Side and rear setback standard—a building must be located at least 5 metres from any side or rear property boundary with land in a residential zone and at least 1 metre from side or rear property boundary with land in any other zone.</p>	<p>RU4 Primary Production and RU2 Rural Landscape are listed as prescribed zones under Part 6 of the SEPP.</p> <p>The Fairfield LEP 2013 lists dwelling houses, dual occupancies and secondary dwellings are permissible land uses within these zones.</p> <p>This clause needs to take into account the potential for conflicts that may occur within these zones. At a minimum the 5 metre side and rear setback should be expanded to scenarios where there is a residential dwelling situated in a rural zone that may be less than 5 metres from a side or rear boundary.</p>
<p><b>Schedule 2 Schools –Complying Development</b></p>	
<p><b>2 Building height</b></p> <p>The building height of a building (whether a new building, or an existing building as a result of an addition or alteration):</p> <p>(a) must not exceed 4 storeys, and</p> <p>(b) must not exceed 22m from ground level (mean).</p>	<p>The majority of schools in the Fairfield Local Government Area are located in the urban area (low residential areas). The maximum height proposed under the draft SEPP has the potential to impact on existing residences. Whilst it is noted that other provisions in the draft SEPP, such as those relating to side and rear setbacks, overshadowing include provisions that seek to minimise the likelihood of any impacts. A height of 22 metres is likely to result in a built form that is more than twice the height limit of 9 metres which is applicable to the R2 Low Density Residential zone under the Fairfield LEP 2013.</p> <p>At a minimum this control should be consistent with those provided for universities development under the SEPP which provides for a maximum of 3 storeys and a maximum height of 15 metres.</p>
<p><b>3 Side and Rear Setbacks</b></p> <p>A building (whether a new building, or an existing building as a result of an addition or alteration) must comply with the following side and rear setbacks:</p> <p>(a) if the building height is 12m or less—the building must be located</p>	<p>RU4 Primary Production and RU2 Rural Landscape are listed as prescribed zones under Part 4 of the draft SEPP.</p> <p>The Fairfield LEP 2013 lists dwelling houses, dual occupancies and secondary dwellings are permissible land uses within these zones.</p>

Provisions of the draft SEPP	Council Officer Comments
<p>more than 5m from any side or rear property boundary with land in a residential zone or more than 1m from any side or rear property boundary with land in any other zone,</p> <p>(b) if the building height is more than 12m but no more than 15m—the building must be located more than 8m from any side or rear property boundary with land in a residential zone or more than 2.5m from any side or rear property boundary with land in any other zone,</p> <p>(c) if the building height is more than 15m but no more than 22m—the building must be located more than 10m from any side or rear property boundary with land in a residential zone or more than 4m from any side or rear property boundary with land in any other zone.</p>	<p>This clause needs to take into account the potential for conflicts that may occur within these zones. At a minimum the provisions specified under this clause for land in a residential zone should be expanded to include adjoining land where a type of residential accommodation is present.</p>
<p><b>7 Landscape</b></p> <p>Landscaping must be provided for a new building constructed adjacent to the boundary of land in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential, as follows:</p> <p>(a) the landscaped area must be 3m wide and along the common boundary,</p> <p>(b) the landscaped area must contain trees or shrubs (that grow to a mature height of 3m or more) that are:</p> <p>(i) suitable for screening, and</p> <p>(ii) not likely to pose a safety or health risk.</p>	<p>RU4 Primary Production and RU2 Rural Landscape are listed as prescribed zones under Part 4 of the draft SEPP.</p> <p>The Fairfield LEP 2013 lists dwelling houses, dual occupancies and secondary dwellings are permissible land uses within these zones.</p> <p>The landscaping provisions should be expanded to ensure that these types of land uses that are permissible outside of the residentially zoned land are provided with the same landscaping requirements.</p>
<p><b>12 Flood Control Lots</b></p>	<p>Fairfield City Council has undertaken detailed flood mapping across the Fairfield LGA for both mainstream and overland flow flood events.</p> <p>Through its experience with the Flood Control Lot provisions under the Exempt and Complying Code SEPP there have been instances where complying development has been undertaken in areas where the flood risk has been identified as being high risk.</p> <p>The Complying Development Certificate (CDC) had been issued by a Private Certifier who had obtained an engineering report that</p>

Provisions of the draft SEPP	Council Officer Comments
	<p>identified the area as not being high risk in contradiction with Council's own detailed flood mapping.</p> <p>Whilst it noted that these are rare occurrences, the wording used in this provisions should be expanded to require any hydraulic engineering report that results in a flood risk lower than that identified by a Council Study, where there is one, should be provided to Council prior to a CDC being determined.</p>
<b>No provisions of Front Setback controls</b>	<p>The draft SEPP does not provide front setback controls for development under Part 2. It is suggested that similar provisions as those provided under Schedule 3 of the SEPP be included. Alternatively, the front setback is to be provided in accordance with the applicable Development Control Plan.</p>
<b>Schedule 3 Universities—complying development</b>	
<p><b>4 Side and rear setback</b></p> <p>(1) A new building must be located at least 5m from any side or rear property boundary with land in a residential zone or at least 1m from any side or rear property boundary with land in any other zone.</p> <p>(2) Alterations or additions to an existing building must not:</p> <ul style="list-style-type: none"> <li>(a) if the existing setback is less than 5m from a side or rear boundary—result in any decrease in the existing set back of the building from that boundary, or</li> <li>(b) if the existing setback is 5m or more from a side or rear boundary—result in the building being located less than 5m from any side or rear property boundary with land in a residential zone or less than 1m from any side or rear property boundary with land in any other zone.</li> </ul>	<p>RU4 Primary Production and RU2 Rural Landscape are listed as prescribed zones under Part 4 of the draft SEPP.</p> <p>The Fairfield LEP 2013 lists dwelling houses, dual occupancies and secondary dwellings are permissible land uses within these zones.</p> <p>This clause needs to take into account the potential for conflicts that may occur within these zones. At a minimum the provisions specified under this clause for land in a residential zone should be expanded to include adjoining land where a type of residential accommodation is present.</p>
<p><b>10 Landscape</b></p> <p>Landscaping must be provided for a new building constructed adjacent to the boundary of land in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential, as follows:</p> <ul style="list-style-type: none"> <li>(a) the landscaped area must be 3m</li> </ul>	<p>RU4 Primary Production and RU2 Rural Landscape are listed as prescribed zones under Part 4 of the draft SEPP.</p> <p>The Fairfield LEP 2013 lists dwelling houses, dual occupancies and secondary dwellings are permissible land uses within these zones.</p>

Provisions of the draft SEPP	Council Officer Comments
<p>wide and along the common boundary,  (b) the landscaped area must contain trees or shrubs (that grow to a mature height of 3m or more) that are:  (i) suitable for screening, and  (ii) not likely to pose a safety or health risk.</p>	<p>The landscaping provisions should be expanded to ensure that these types of land uses that are permissible outside of the residentially zoned land are provided with the same landscaping requirements</p>
<p><b>15 Flood control lots</b></p>	<p>Fairfield City Council has undertaken detailed flood mapping across the Fairfield LGA for both mainstream and overland flow flood events.</p> <p>Through its experience with the Flood Control Lot provisions under the Exempt and Complying Code SEPP there have been instances where complying development has been undertaken in areas where the flood risk has been identified as being high risk.</p> <p>The Complying Development Certificate (CDC) had been issued by a Private Certifier who had obtained an engineering report that identified the area as not being high risk in contradiction with Council's own detailed flood mapping.</p> <p>Whilst it noted that these are rare occurrences, the wording used in this provisions should be expanded to require any hydraulic engineering report that results in a flood risk lower than that identified by a Council Study, where there is one, should be provided to Council prior to a CDC being determined.</p>
<p><b>Schedule 5 Amendment of environmental planning instruments</b></p>	
<p><b>5.2 State Environmental Planning Policy (State and Regional Development) 2011</b>  <b>Schedule 1 State significant development—general</b>  Omit clause 15. Insert instead:  <b>15 Educational establishments</b>  (1) Development for the purpose of a new school (regardless of the capital investment value).  (2) Development that has a capital investment value of more than \$20 million for the purpose of alterations or additions to an existing school.  (3) Any other development for the purpose of educational establishments (including</p>	<p>These provisions effectively remove Council as a consent authority in matters that are likely to affect its community and therefore are not supported.</p>

Provisions of the draft SEPP	Council Officer Comments
associated research facilities) that has a capital investment value of more than \$30 million.	

**APPENDIX B – SPECIFIC COMMENTS ADDRESSING PROVISIONS OF THE DRAFT  
CHILD CARE CENTRE PLANNING GUIDELINES**

<b>CRITERIA</b>	<b><u>Council officer comment</u></b>
<b>CRITERIA 3A LOCATION</b>	<p>Design Criteria to be expanded to discourage the locating of centre based childcare centres within the residential areas such as on battle-axe allotments and cul-de-sacs.</p> <p>Design Criteria should be expanded to include ideal site dimensions for centre based childcare centres based on example schemes similar to those for residential flat buildings under the Apartment Design Guideline.</p> <p>Provisions should also be included to discourage co-locating of uses in residential areas. Such as in dual occupancies, semi-detached dwellings to remove doubt.</p>
<b>CRITERIA 3F PEDESTRIAN AND VEHICLE ACCESS</b>	<p>Criteria regarding busy roads or any other roads should make reference to a DCP. I.e A council can specify where childcare centres are discouraged such as on cul-de-sacs and sub arterial roads that are not classified roads.</p>
<b>CRITERIA 3J NOISE AND POLLUTION</b>	<p>Clarification is required whether noise impacts from centre-based childcare facilities should be only assessed against the NSW EPA Industrial Noise Policy , or whether it is acceptable to also assess such noise against other recognised guidelines (such as the AAAC Guideline for Childcare Centre Acoustic Assessment)</p>



<p><b>APPENDIX 3</b></p>	<p>Appendix 3 recommends that development applications for centre-based childcare facilities located within 100m of high voltage transmission line easements or mobile phone towers should include an electromagnetic field assessment. Given the high density of mobile phone towers within metropolitan areas, it is likely that a large number of development applications could fall within the 100 metre radius of these electromagnetic sources. Unlike the Industrial Noise Policy for noise, and the Approved Methods for Modelling and Assessment of Air Pollutants in New South Wales for air quality, there is currently no guidance on the assessment of electromagnetic fields. Without further guidance material for consultants and Council officers, it will be difficult to adopt this recommendation.</p>
	<p>Appendix 3 recommends that development applications for centre-based childcare facilities within industrial areas and adjacent to major roads and railways should include an acoustic assessment. To reflect design criteria 3I, the table in appendix 3 should also state that acoustic assessments are required for developments within residential areas, and when there are other nearby sensitive receivers.</p>
<p><b>OTHER ISSUES</b></p>	<ul style="list-style-type: none"> <li>• Several typos within the documentation including:  Page 5 last paragraph of the draft Child Care Design Guidelines should refer to Part 3 not Division 3 of the Draft SEPP.</li> <li>• The definition of “centre-based child care” in Table 1 of the Explanation of Intended Effect: draft SEPP (Page 11) is unclear. Contains a double negative and needs to be amended.</li> </ul>