

6 April 2017

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

RE: SYDNEY CHURCH OF ENGLAND GRAMMAR SCHOOL (SHORE) SUBMISSION ON DRAFT EDUCATION AND CHILD CARE SEPP

Dear Sir/Madam

Introduction

This submission on the Draft Education and Child Care SEPP has been prepared by Robinson Urban Planning Pty Ltd for the Sydney Church of England Grammar School (**Shore**).

Shore has the following two school campuses that would be subject to the Draft SEPP:

1. **North Sydney:** Preparatory School (Year 3 to 6) and Senior School (Year 7 to 12)
2. **Northbridge:** Year K to 2, Early Learning Centre (child care) and Shore's main sports facilities.

Both Campuses are the subject of ongoing maintenance and development proposals and as such Shore is a key stakeholder in education and child care planning policy.

Shore welcomes planning reforms that would streamline the approval pathway for schools and child care centres and commends the NSW Government's efforts to improve education and child care planning policy.

There are, however, several aspects of the Draft Education and Child Care SEPP (and associated exhibition documents) that could be expanded or amended to improve the efficacy of the reforms as detailed in this submission. For each matter raised, Shore's recommended amendments are shown in **red**.

Submission

1. **The approval pathway for community purposes should be more clearly prescribed** (clauses 29(4) and 32(1)(i) of the Draft SEPP)

The use of existing school facilities for community purposes is nominated in the Draft SEPP as follows:

- Development permitted with consent (clause 29(4))
- Exempt development (clause 32(1)(i)).

This is extremely confusing and provides an uncertain approval pathway for the community use of existing school, an acknowledged benefit for the wider community. This provision is particularly relevant to Shore as the school is currently seeking consent for the Shore Physical Education Centre (**SPEC**) (SSD 7507) and has expressed a willingness to make the SPEC available for community use. This initiative has been welcomed by North Sydney Council given an identified shortage of sports facilities in the area.

To expedite community use of the future SPEC, the most streamlined approval pathway should be clearly implemented (that is exempt development).

Recommendation: Clauses 29(4) and 32(1)(i) of the Draft SEPP should be amended to clarify the approval pathway for use of existing school facilities for community purposes with care taken to facilitate the most streamlined approval process (ie. exempt development).

2. The approval pathway for portable classrooms should be more clearly prescribed (clauses 30(1)(a)(ii) and 32(1)(l)(ii) of the Draft SEPP)

A portable classroom is nominated in the Draft SEPP as follows:

- Development permitted without consent (clause 30(1)(a)(ii))
- Exempt development (clause 32(1)(l)(ii)).

This is confusing and provides an uncertain approval pathway for the installation of portable classrooms, a very common and important form of school development.

Additionally, a streamlined approval process should be provided for portable buildings accommodating other school uses (for example administration, amenities, libraries). The potential impacts of non-classroom uses in portable buildings are no different to classroom uses.

Recommendation: Clause 30(1)(a)(ii) and/or 32(1)(l)(ii) of the Draft SEPP should be amended to clarify the approval pathway for portable classrooms and to provide for other uses in portable buildings.

3. The approval pathway for parking should be more clearly prescribed and expanded (clause 30(1)(a)(v)) and 33(1)(a)(xi) of the Draft SEPP)

Parking is nominated in the Draft SEPP as follows:

- A car park that is not more than one storey high is development permitted without consent (clause 30(1)(a)(v))
- An at grade car park is complying development (clause 33(1)(a)(xi))
- There is no streamlined approval pathway for excavated parking or parking under a building (even if the depth of excavation is minor).

Curiously, the more streamlined approval process (being development permitted without consent) applies to the more intense form of development (a one storey parking structure).

Recommendation: Clauses 30(1)(a)(v) and 33(1)(a)(xi) of the Draft SEPP should be reviewed to clarify the approval pathway for parking (including excavated parking and parking under a building) with care taken to facilitate the most streamlined approval process.

4. Inadequate direction is provided in relation to population caps (clause 33(5) of the Draft SEPP and planning circular)

The Draft SEPP (clause 33(5)) states that complying development provisions do not authorise contravention of any conditions of consent, including conditions in relation to the number of students or staff.

The planning circular on exhibition provides some guidance on population caps and notes that:

Proposed development that involves the expansion of existing schools is often restricted by existing cap conditions limiting student and staff numbers on a school site (cap conditions). These cap conditions are an important tool to manage traffic and parking impacts, but can be a major constraint on the growth of the school and the provision of essential school infrastructure. To ensure that these cap conditions are

applied consistently and appropriately, a planning circular has been prepared providing best practice guidance to applicants and consent authorities.

The planning circular provides a welcome guide, but it is Shore's view that it lacks enforcement power and that Council's may impose caps without adequate justification.

Recommendation: The Draft SEPP should be amended to provide clear limitations on the imposition of population cap conditions to ensure that Council's do not unfairly limit the growth of schools.

5. The overshadowing standard) should be amended to align with the Apartment Design Guide (Schedule 2 of the Draft SEPP)

The Draft SEPP Schedule 2 includes an overshadowing standard that requires adjoining residential accommodation to receive at least 3 hours solar access between 9am and 3pm in mid-winter and no increase where solar access is less than 3 hours.

To provide a consistent environmental assessment process for all forms of development in the State, the overshadowing standard in the Draft SEPP should be amended to align with the Apartment Design Guide (ADG) objectives and design guidance in relation to overshadowing of neighbouring properties which state (in part):

- ADG Objective 3B-2

Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access which states:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of **2 hours** direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas
- In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of **3 hours** direct sunlight between 9 am and 3 pm at mid-winter.

- ADG Objective 4A-1

Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.

Recommendation: Draft SEPP Schedule 2, 5 Overshadowing should be amended to match the solar access design guidance set out in the ADG, Objectives 3B-2 and 4A.

6. The requirement to refer certain development to the Roads and Maritime Services (RMS) will cause unreasonable uncertainty and delays (clause 51 of the Draft SEPP)

Pursuant to clause 51 of the Draft SEPP, all DAs proposing works capable of accommodating 50 or more students would be referred to the Roads and Maritime Services (RMS). Shore is concerned that:

- The RMS will be unnecessarily consulted in relation to local roads
- The relevant capacity of 50 students is too low (less than two class groups) and will be unnecessarily triggered for relatively small developments
- Obtaining RMS comments will lead to unreasonable delays and create uncertainty.

Recommendation: Clause 51 of the Draft SEPP should be deleted or the relevant threshold for RMS referrals should be substantially increased (to say 250 students).

7. There should be no restriction on who can certify CDCs for school infrastructure (Explanation of Intended Effect, p. 7)

The Explanation of Intended Effect on exhibition suggests that an idea being explored is that CDCs for school infrastructure be issued by Council certifiers only. Shore objects to this suggestion and notes that the potential restriction is unwarranted for the following reasons:

- CDC assessments involve a technical assessment, with no qualitative analysis. Given this, the assessment can be effectively carried out by private or Council certifiers (that is the current system) and there is no value to providing a Council oversight role
- Many Councils are unlikely to have the resources to determine CDCs in a timely manner, noting that private certifiers are able to determine most CDCs for school infrastructure in 7 days
- Delays incurred by such a suggestion may undermine any improvements achieved by the Government's past and planned efforts to streamline education infrastructure approval processes.

Recommendation: Existing legislation that provides for the issuing of school complying development certificates by Councils and private certifiers should be preserved.

8. Care should be exercised if the relevant planning panels are to be the consent authority for school DAs that are not State Significant (Explanation of Intended Effect, p. 7)

The Explanation of Intended Effect on exhibition suggests that consideration is being given to making relevant planning panels the consent authority for school DAs that are not State significant. Shore asks that care is taken in relation to this suggestion as the potential to issue consents using Council staff delegations should not be lost.

Recommendation: Care should be taken if relevant planning panels are to be the consent authority for school DAs that are not State Significant to preserve the ability to use staff delegations to determine applications.

9. The reforms should provide more clear direction on the carrying out of complying development where sites are partly heritage listed

The provisions relating to application of the Codes SEPP to heritage items (cl. 1.17A) were amended on 22 February 2014 to enable the issuing of a CDCs for development on any part of a site that is not "described and mapped" as a heritage item. Unfortunately, the amendment did not provide sufficient certainty as:

- Local environmental plans typically map entire sites as a heritage item, even when the heritage schedule lists a building or small group of buildings
- Planning certificates still treat such sites as heritage items in full and note that complying development is not available.

Shore's North Sydney campus is mapped and listed as a heritage item even though many buildings on the site have no heritage significance. As such, complying development cannot be carried out on the site. The uncertainty, costs and delays associated with lodging DAs for quite small school infrastructure projects frustrates the efficient delivery of improvements.

Recommendation: Reforms should be explored to provide for more sophisticated heritage mapping in local environmental plans and planning certificate notations to ensure that heritage restrictions on the carrying out of complying development do not inadvertently apply to non-heritage listed buildings/areas.

10. The Department should carry out training to registered non-government schools (RNS) on the self-assessment process for Part 5 determinations

The NSW Code of Practice for Part 5 Activities for registered non-government schools (on exhibition) provides a useful and detailed guide on the assessment process for development without consent carried out by RNS. Shore also suggests that the Department should carryout training workshops for interested RNS to ensure that the obligations are fully understood.

Recommendation: The Department should carry out comprehensive workshops to train RNS on the assessment process for development without consent.

Shore trust that the Department will fully consider the issues raised in this submission. Please do not hesitate to contact the undersigned should you require any additional information.

Yours sincerely

Sandra Robinson BTP (Hons) MPIA
Director