



THE UNIVERSITY OF
SYDNEY

Dr Michael Spence AC
Vice-Chancellor and Principal

4 April 2017

The Hon. Anthony Roberts MP
Minister for the Planning
GPO Box 5341
SYDNEY NSW 2001

Cc: Caroline McNally, Secretary, Department of Planning & Environment

Dear Minister

Draft SEPP (Educational Establishments & Child Care Facilities) 2017

I write to congratulate you and respond to the Department of Planning and Environment's ("DPE") public exhibition of the draft *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the "draft SEPP"). The University welcomes and supports the draft SEPP as a stand-alone and bespoke planning instrument for educational establishments (being universities, schools and TAFEs) and child care facilities, and one that will replace the existing planning pathways contained in Part 3 of Division 3 of the *State Environmental Planning Policy (Infrastructure) 2007* ("SEPP (Infrastructure)").

The draft SEPP represents a significant milestone in NSW planning reform achievements towards streamlining planning approval pathways and efficiencies for universities. Another recent achievement we have benefited from is the listing of certain universities (including the University of Sydney ("University")) as 'public authorities' under the *Environmental Planning and Assessment Regulation 2000*. This provision allows universities to self-assess *Development Permitted without Consent* for a raft of low scale and low impact building works on university land under the provisions of the *SEPP (Infrastructure)*.

The University, along with other universities in the New South Wales Vice Chancellors Committee ("NSWVCC"), has worked closely with the DPE over the past two years in seeking to obtain streamlined and expedient planning approval pathways. In particular, we have requested access to Complying Development for universities, where a Principal Certifying Authority can assess and issue Complying Development Certificates for categories of low impact development. To date, universities remain one of the few sectors of the construction industry that does not have access to Complying Development. The draft SEPP acknowledges our request.

In summary, the University supports the draft SEPP, subject to a number of important proposed changes we regard as crucial to achieving the draft SEPP objective of a streamlined and efficient planning system. The purpose of this letter is to seek your, and the DPE's, consideration and support for these changes. Our recommendations are also supported by the NSWVCC who will be making a separate submission.

Our principal recommendations are summarised below, and are expanded in detail in the attached report.



1. **Student Accommodation:** The draft SEPP proposes to exclude student accommodation from development for the purpose of a university. This exclusion prevents a university from making use of the planning pathways under the draft SEPP in respect of its student accommodation building works. Our initial discussion with DPE staff indicates DPE's opinion that student accommodation is similar to residential development or, in particular, boarding houses. The University disagrees with this comparison. In this context, we refer to student accommodation as that which is developed, owned and managed by the University, and not by a private student housing provider.

University student accommodation is an essential component of the facilities and services we provide in the educational development and support of our students. Our student accommodation comprises mixed-use buildings that also incorporate other educational establishment uses such as teaching, computer, tutor, music and study rooms, as well as the Student Wellbeing services and programs provided by the University's Student Accommodation Services. The *Attachments* report accompanying this letter provide a detailed summary of the role, functions and services provided by our student accommodation buildings. The University therefore requests that the proposed planning pathways available under the draft SEPP apply to all relevant university development including university student accommodation.

2. **Complying Development in Conservation Areas:** The University does not support the draft SEPP clause preventing Complying Development from being carried out by universities within a heritage conservation area. The University's entire Camperdown Campus is located in a heritage conservation area and, as such, the University would not be able to carry out any Complying Development within it. We note that Complying Development within heritage conservation areas is currently permissible for Schools and TAFEs within the existing *SEPP (Infrastructure)* as well as under the draft SEPP. The University therefore requests that this permissibility be extended to all educational establishments including universities. The University prides itself on our heritage values, buildings and places, and benefits from Conservation Management Plans to our grounds and significant buildings. We are also well supported by in-house heritage experts who maintain and conserve our heritage.
3. **Access to Land Use Zones:** The draft SEPP proposes a limited list of land use zones contained in Local Environmental Plans that are considered to apply to university land and activities. This list is a significant reduction of the land use zones recognised as 'prescribed zones' under the existing *SEPP (Infrastructure)*. The reduced list will introduce unnecessary limitations and restrictions on both existing and proposed planning pathways for small scale university building works. We also note that no such limitations exist, or are proposed, for Schools and TAFEs under the existing *SEPP (Infrastructure)* or the draft SEPP. The *Attachments* report accompanying this letter provides you with a list of the land use zones (in addition to SP1 and SP2 Infrastructure zones) that are occupied by the University's educational establishment activities.
4. **Other changes:** The University recommends a raft of other changes to the draft SEPP to reflect the full range of building uses pursued by universities, as well as to ensure that transitional arrangements with other environmental planning instruments, Acts and Regulations linked to the draft SEPP are effective. These issues have been discussed with DPE staff and are summarised in the *Attachments* report accompanying this letter.



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On a parallel issue, I wish to inform you that the University has been in consultation with the NSW Heritage Division of the Office of Environment & Heritage regarding the proposal to list the University's Camperdown Campus on the State Heritage Register and the drafting of site-specific exemptions. These exemptions have an overlap function with the planning pathways proposed under the draft SEPP. I have written to the Minister for Heritage and the Heritage Council requesting that this matter be temporarily placed on hold until the draft SEPP is finalised and gazetted.

The University seeks to continue its productive, working relationship with the DPE in finalising this significant planning reform and we look forward to your support and response to our recommendations in this matter. Please do not hesitate to contact us for any clarification or with any queries. Planning and heritage matters are managed by the University's Campus Infrastructure Services and the Director, Greg Robinson, can be contacted on (02) 9114 0857 or by email at g.robinson@sydney.edu.au

Yours sincerely,



Michael Spence

ATTACHMENTS

The University of Sydney

Submission in response to the: Draft SEPP (Educational Establishments & Child Care Facilities) 2017

EXPLANATION

The University of Sydney's submission to the Department of Planning & Environment's public exhibition of the draft *SEPP (Educational Establishments and Child Care Facilities) 2017* (the "draft SEPP") recommends a number of amendments be adopted to the draft SEPP, as summarised in the cover letter by the Vice Chancellor of the University of Sydney.

The following Attachments provide the details and justification to the University of Sydney's recommendations:

Attachment A – Recommended Amendments to the draft SEPP: Table clarifying recommended changes sought to relevant clauses to the following environmental planning instruments, and the justification for these changes:

- Draft SEPP
- SEPP (Infrastructure) 2007
- SEPP (Exempt & Development Codes) 2008
- Environmental Planning & Assessment Regulation 2000

Attachment B - Land Use Zones: Summary of land use zones accommodating by University Buildings and Facilities (other than SP1 and SP2)

Attachment C - Summary on University Student Accommodation

ATTACHMENT A

The University of Sydney

Recommended Amendments to the draft *SEPP (Educational Establishment & Child Care Facilities) 2017* instrument

Explanation: The Department of Planning & Environment (DPE) has requested The University of Sydney to provide a list of the proposed changes it seeks to the draft *SEPP (Educational Establishments and Child Care Facilities) 2017* (the “draft SEPP”) instrument, and the justification for these changes.

The table below addresses not only changes to the draft SEPP on public exhibition, but also to the:

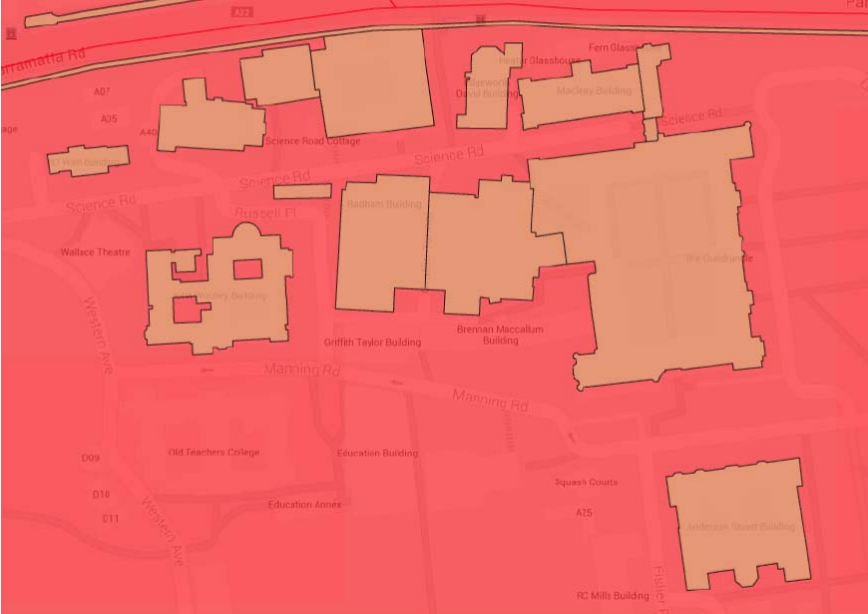
- Draft SEPP (Exempt & Complying Development Codes) 2008; and
- Environmental Planning & Assessment regulation 2000.

The following table clarifies the existing planning pathways that Universities can currently access, the proposed changes by the draft SEPP, and the recommendations of the university for changes to the draft SEPP with justification provided (with specific reference to clauses).

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none">SEPP (Infrastructure) 2007SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| 1. ACKNOWLEDGED UNIVERSITY USES AND LAND USE ZONES Defined by Educational Establishment and ancillary uses | Clause 37 Definition of “prescribed zone” Certain categories of prescribed land use, such as Residential zones, are not recognised in the draft SEPP as being land use zones on which Universities operate. <table><tr><td>Proposed TAFE Zones</td><td>Proposed University Zones</td></tr><tr><td>RU1 Primary Production</td><td>B2 Local Centre</td></tr><tr><td>RU2 Rural Landscape</td><td>B3 Commercial Core</td></tr><tr><td>RU4 Primary Production Small Lots</td><td>B4 Mixed Use</td></tr><tr><td>RU5 Village</td><td>B5 Business Development</td></tr><tr><td>RU6 Transition</td><td>B6 Enterprise Corridor</td></tr><tr><td>R1 General Residential</td><td>B7 Business Park</td></tr><tr><td>R2 Low Density Residential</td><td>B8 Metropolitan Centre</td></tr><tr><td>R3 Medium Density Residential</td><td>SP1 Special Activities</td></tr><tr><td>R4 High Density Residential</td><td>SP2 Infrastructure</td></tr><tr><td>R5 Large Lot Residential</td><td></td></tr><tr><td>B1 Neighbourhood Centre</td><td></td></tr><tr><td>B2 Local Centre</td><td></td></tr><tr><td>B3 Commercial Core</td><td></td></tr><tr><td>B4 Mixed Use</td><td></td></tr><tr><td>B5 Business Development</td><td></td></tr><tr><td>B6 Enterprise Corridor</td><td></td></tr><tr><td>B7 Business Park</td><td></td></tr><tr><td>B8 Metropolitan Centre</td><td></td></tr><tr><td>SP1 Special Activities</td><td></td></tr><tr><td>SP2 Infrastructure</td><td></td></tr><tr><td>E4 Environmental Living</td><td></td></tr></table> | Proposed TAFE Zones | Proposed University Zones | RU1 Primary Production | B2 Local Centre | RU2 Rural Landscape | B3 Commercial Core | RU4 Primary Production Small Lots | B4 Mixed Use | RU5 Village | B5 Business Development | RU6 Transition | B6 Enterprise Corridor | R1 General Residential | B7 Business Park | R2 Low Density Residential | B8 Metropolitan Centre | R3 Medium Density Residential | SP1 Special Activities | R4 High Density Residential | SP2 Infrastructure | R5 Large Lot Residential | | B1 Neighbourhood Centre | | B2 Local Centre | | B3 Commercial Core | | B4 Mixed Use | | B5 Business Development | | B6 Enterprise Corridor | | B7 Business Park | | B8 Metropolitan Centre | | SP1 Special Activities | | SP2 Infrastructure | | E4 Environmental Living | | <p>The University objects to the proposed reduced list of prescribed land use zones available to Universities under the draft SEPP, e.g. exclusion of Residential, and Rural, and some Business land use zones. There is no rationale for any such exclusions. Furthermore, these exclusions are NOT applied to Schools or TAFEs, either in the existing <i>SEPP (Infrastructure) 2007</i>, or in the draft SEPP.</p> <p>Attachment B provides a list of other LEP land use zones that accommodate University of Sydney buildings and facilities.</p> <p>Recommendation: The University requests that all universities have access to a complete list of prescribed land uses as currently exists under the <i>SEPP (Infrastructure) 2007</i> and as is proposed for TAFEs in the <i>draft SEPP Educational Establishment and Child Care Facilities) 2017</i></p> |
| Proposed TAFE Zones | Proposed University Zones | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RU1 Primary Production | B2 Local Centre | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RU2 Rural Landscape | B3 Commercial Core | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RU4 Primary Production Small Lots | B4 Mixed Use | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RU5 Village | B5 Business Development | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RU6 Transition | B6 Enterprise Corridor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R1 General Residential | B7 Business Park | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R2 Low Density Residential | B8 Metropolitan Centre | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R3 Medium Density Residential | SP1 Special Activities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R4 High Density Residential | SP2 Infrastructure | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R5 Large Lot Residential | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B1 Neighbourhood Centre | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B2 Local Centre | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B3 Commercial Core | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B4 Mixed Use | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B5 Business Development | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B6 Enterprise Corridor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B7 Business Park | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B8 Metropolitan Centre | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SP1 Special Activities | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| SP2 Infrastructure | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| E4 Environmental Living | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | <p>Clause 38 – Development for the purpose of student accommodation</p> <p>The draft SEPP seeks to exclude Student Accommodation as University development for the purpose of Exempt Development, Complying Development or REF.</p> | <p>The University strongly objects to this position and requests clause 38 be deleted.</p> <p>The draft SEPP declares that Student Accommodation "is not an educational facility and is a separate use", and "student accommodation is not development for the purpose of a university".</p> <p>Initial discussion with DPE staff concludes that DPE assumes student accommodation to be the same as residential accommodation or boarding houses.</p> <p>Attachment C provides the University's details on the mixed use nature of University owned student accommodation premises. Student accommodation development is typically a mixed-use development incorporating educational establishment uses and is not a "residential development".</p> <p>Recent SSD approvals and SEARs from the Minister for Planning have acknowledged the mixed use <i>educational establishment</i> development nature of various University proposals.</p> <p>Mixed uses include various teaching, learning, computer, mentoring, study, and practice (e.g. music) spaces, as well as other University services (tutoring, well-being etc...), within the building.</p> <p>Recommendation: The University recommends that clause 38 be deleted from the draft SEPP:</p> <p>38 Development for the purpose of student accommodation In this Part, development for the purpose of a university does not include development for the purpose of student accommodation associated with a university, regardless of whether, or the extent to which, the university is involved in, or exercises control over, the activities and life of the students living in the accommodation.</p> |
| <p>2. EXEMPT DEVELOPMENT – subject to criteria compliance:</p> <ul style="list-style-type: none"> Access ramps for persons with a disability Air conditioning units Awnings, canopies, pergolas and storm blinds Building external alterations including re-cladding roofs or walls (no increase in GFA) Building internal alterations Open Car parks Carports Decks Demolition of buildings – max 100m². NOT in Heritage items/Conservation areas) Fences Flagpoles Hoardings (for approved development sites) | <p>Refer to draft Education SEPP Division 5 - 15, 16, 42, and Schedule 1</p> <p>Same list as existing but with additional range of exempt development categories (subject to criteria):</p> <ul style="list-style-type: none"> Tree removal or lopping, endorsed by qualified arborist Play equipment Irrigation schemes for landscaping Routine maintenance Cycle ways, walking paths, boardwalks, minor pedestrian bridges, stairs, gates, BBQs, Shade structures and shelters Recreation facility including playing field (not involving more than 2ha land clearance and located further than 200m from nearest residential) Viewing platform (100m² and 3m above ground level) | <p>The University supports <i>draft Clause 42 Universities - exempt development</i> and proposes the following amendments:</p> <p>1. Signage: The majority of University signs are contained within a campus and located away from public roads. Consequently, Universities should not be restricted to a square metre area for the size of signs on campus (as proposed by Signage under Schedule 1). The University requests the amendment to clause 42(1)(l):</p> <ul style="list-style-type: none"> 42(1)(i) Signage: directional signage for pedestrians, identification, community information signs, safety signs, temporary signs advertising an event and associated relevant details including sponsorship of the event but not including roof-top signs or commercial advertising or signs associated with the use of road infrastructure (including signs associated with level crossings) |

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| <ul style="list-style-type: none"> Landscaping Lighting Portable offices (1 storey) Rainwater Tanks Retaining walls Scaffolding Sheds (30m² max) Signs – identification, wayfinding – max 3.5m² Subdivision – boundary adjustments | <ul style="list-style-type: none"> Directional signage for pedestrians & information boards Environmental management works Amenities building Portable/temporary office, classroom & amenities buildings (1 storey) | <p>2. Portable and temporary buildings be expanded to include the appropriate range of University uses, and not be limited to offices:</p> <ul style="list-style-type: none"> 42(1)(l) a portable or temporary classroom teaching facility, storage/maintenance facility, trade/training facility, kiosk, or office (including its removal): <p>3. Recreational facility. The location of a recreational facility 200 metres away from a public road is onerous and unnecessary. No such standard is proposed for TAFE recreational facilities. The University requests the deletion of clause 42(1)(g)(ii):</p> <ul style="list-style-type: none"> (ii) any structure is located at least 200 metres from any property boundary with land in a residential area, <p>4. Child Care: The University highlights the importance of University child care facilities both on and off campus. Child Care facilities are core university business, contribute to campus diversity and inclusion, and alleviate the pressure on surrounding private child care facilities. University child care facilities also benefit from campus proximity and access to other University facilities such as open space and sports/recreational facilities. The University requests the same Exempt Development for low impact child care developments, also be afforded to Universities:</p> <ul style="list-style-type: none"> Mobile child care Temporary relocation of services due to emergency Home-based child care on bushfire prone land Use of existing facilities or buildings for the purposes of providing child care |
| SCHEDULE 1 - EXEMPT DEVELOPMENT GENERAL | | <p>Car Parks: Universities manage a holistic approach to car parks and should not be limited by exempt works increasing or decreasing car park numbers. Recommendation: The University requests the deletion off the following exempt Development standard for car parks:</p> <ul style="list-style-type: none"> Must not reduce car parking spaces. |
| <p>3. COMPLYING DEVELOPMENT – Complying Development categories under the iSEPP currently does not include Universities, but do include Schools and TAFEs.</p> | <p>Refer to draft Education SEPP Division 5 Clauses 17, 18, 19, 43 and Schedule 3</p> <p>Heritage sites and Conservation Areas are excluded.</p> | <p>The University conditionally supports the inclusion of Complying Development for universities subject to the following amendments to the draft SEPP:</p> <p>The University opposes the exclusion of Complying Development to Conservation Areas and requests that this proposed exclusion be deleted, for reasons including:</p> <ol style="list-style-type: none"> The draft Education SEPP does not include any such exclusion for Schools (clauses 34 & 35) and TAFEs (clause 50). The existing <i>SEPP (Infrastructure) 2017, Division 5 Complying Development</i> (preceding clause 20A), and clause 31A <i>Complying development – existing schools and TAFE establishments</i>, does not exclude Complying Development from Conservation Areas. |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none"> SEPP (Infrastructure) 2007 SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
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| | | <p>3. The existing <i>SEPP (Exempt and Complying Development Codes) 2008</i>, clause 1.17A <i>Requirements for complying development for all environmental planning instruments</i>, does not exclude Complying Development from Conservation Areas.</p> <p>4. University campuses include S170 registers and lists identifying those items, places and buildings that have heritage significance. Universities have built-in heritage expertise to ensure that all items of heritage significance are appropriately managed and maintained</p> <p>5. The proposed exclusion specifically isolates universities (from Schools and TAFEs) by unnecessarily removing the very Complying Development provisions the University has sought to obtain through protracted negotiations with DPE staff.</p> <p>6. The University’s position is supported by the DPE draft Background paper <i>A review of Complying Development in the University sector</i>, (the discussion paper to Universities by DPE), which highlights the case of The University of Sydney Camperdown campus being a Conservation Area (area in pink) with certain heritage items (in orange), and concludes that Complying Development would be permitted outside the mapped individual buildings.</p>  <p>EXAMPLE OF SYDNEY UNIVERSITY CAMPUS WHERE INDIVIDUAL BUILDINGS ARE MAPPED. COMPLYING DEVELOPMENT WOULD BE PERMITTED OUTSIDE THESE MAPPED AREAS.</p> <p>Recommendation: Part deletion. Draft clause 43 existing universities – complying development, subclause (a)(ii) be deleted:</p> <p>43 Existing universities—complying development</p> <p>(1) Development carried out by or on behalf of any person in connection with an existing university is complying development if:</p> <p>(a) it is carried out on land in a prescribed zone, other than land:</p> <p>(i) that is, or on which is located, a draft heritage item, or</p> <p>(ii) that is within a heritage conservation area or a draft heritage conservation area, and</p> |

| <p>WHAT UNIVERSITIES CURRENTLY ACCESS</p> <ul style="list-style-type: none"> SEPP (Infrastructure) 2007 SEPP (Exempt & Complying Development Code) 2008 | <p>WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES</p> | <p>UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP</p> |
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| | <p>Introduces a new raft of Complying Development provisions for Universities buildings that are up to 15 metres high (3 storeys max) and covering a maximum GFA of 2,000m²</p> | <p>Recommendation: Amendment of Schedule 3 Universities – complying development</p> <p>2 Building height The building height of a building (whether a new building, or an existing building as a result of an addition or alteration): (a) must not exceed 3 storeys, and (b) must not exceed 15m from ground level (mean).</p> <p>Rationale - the limitation of 3 storeys within a 15-metre-high building is unreasonable and unnecessary and does not invoke any additional environmental impacts. Complying Development can cater for BCA compliance for 4 storey buildings</p> |
| | <p>Complying Development will include:</p> <ul style="list-style-type: none"> a library or an an administration building an office premises a recreation facility (indoor) or recreation facility (outdoor), a classroom, a lecture theatre, a laboratory, a trade or training facility, a cafe, cafeteria or take away food and drink premises a kiosk or bookshop a hall, including a hall with an associated covered outdoor learning area or kiosk, an environmental facility, including a greenhouse or glass house, an information and education facility, a community facility, a storage or maintenance facility, an amenities building, if the development is not on bush fire prone land or if the educational establishment is not, or does not contain, a heritage item—an outdoor learning or play area and associated awnings or canopies, demolition of buildings (unless the building is a State or local heritage item or is within a heritage conservation area) if the footprint of the building covers an area greater than 250 m², | <p>Recommendation: The term Classroom be replaced with “teaching facility” (the term <i>classroom</i> is more appropriate for schools)</p> <p>Recommendation: Part deletion. The caveat on bush fire prone land and heritage items is an unnecessary limitation for this specific form of development. Furthermore, the standards are not required for Schools or TAFEs.</p> <ul style="list-style-type: none"> if the development is not on bush fire prone land or if the educational establishment is not, or does not contain, a heritage item—an outdoor learning or play area and associated awnings or canopies, <p>Recommendation – Demolition. The University request the deletion of the reference to 250m² maximum footprint as this is an unnecessary constraint for complying development. Furthermore, Universities should be able to proceed with the demolition off buildings that have no heritage significance within a conservation area. Universities have detailed</p> |

| <p>WHAT UNIVERSITIES CURRENTLY ACCESS</p> <ul style="list-style-type: none"> SEPP (Infrastructure) 2007 SEPP (Exempt & Complying Development Code) 2008 | <p>WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES</p> | <p>UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP</p> |
|---|---|--|
| | <ul style="list-style-type: none"> minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability, restoration, replacement or repair of damaged facilities, a car park, | <p>listings and conservation management procedures for relevant heritage items within campus.</p> <ul style="list-style-type: none"> demolition of buildings (unless the building is a State or local heritage item or is within a heritage conservation area) if the footprint of the building covers an area greater than 250 m²; <p>Recommendation: Part deletion (see explanation in next row below)</p> <ul style="list-style-type: none"> minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability <p>Recommendation: Centre based child care facilities be added to clause 43 as an additional item, as is proposed for Schools (clause 34) and TAFEs (clause 50(1)(v)) under the draft Education SEPP:</p> <p>NEW 43(1)(xvii) centre-based child care,</p> |
| | <p>Building Additions and Alterations - draft Clause 43 and Schedule 3</p> | <p>Clause 43(1)(b)(xiv) allows for <i>minor additions and alterations</i> to buildings but subject to satisfying that the works <i>'address work health and safety requirements or to provide access to people with a disability'</i>. This requirement is confusing when read in conjunction with Cl. 43(d) (limiting building additions to 2,000m² or 50% building expansion) and therefore unnecessarily limits the application of alterations and additions.</p> <p>Furthermore, the 50% GFA limitation of sub clause (d)(i) unnecessarily prevents additions to small buildings, given the ability to provide up to 2,000m². Under subclause (d)(ii).</p> <p>Recommendation:</p> <ol style="list-style-type: none"> Clause 43(1)(b)(xiv) be amended with part deletion: <ul style="list-style-type: none"> (1) Development carried out by or on behalf of any person in connection with an existing university is complying development if: (b) it consists of the construction of, or alterations or additions to, any of the following: (xiv) minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability, Clause 43(1)(d)(i) be deleted <ul style="list-style-type: none"> (d) for development that involves an alteration or addition to a building: (i) it does not extend the gross floor area of the existing building by more than 50%, and (ii) it does not result in the building having a gross floor area of more than 2,000 square metres, and Schedule 3 Universities – complying development standard 3(2)(b)(ii) be deleted: |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none"> • SEPP (Infrastructure) 2007 • SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
|---|---|---|
| | | <p>3 Maximum gross floor area (2) If the development is an alteration or addition to an existing building, the maximum gross floor area of the building as altered or added to is: (b) if no environmental planning instrument imposes a development standard referred to in paragraph (a)—the lesser of: (i) 2,000m², or (ii) 50% of the gross floor area of the existing building.</p> |
| | Registered easement | <p>Clause 43(4) prevents development resulting in the erection of a building over a registered easement from being complying development. The requirements for easement is covered by other existing legislation. However, this standard for registered easements is NOT replicated for Schools and TAFEs. Furthermore, this requirement is inconsistent with the <i>Standard Instrument</i>.</p> <p>Recommendation: The University requests clause 43(4) be deleted. (4) Development that will result in the erection of a building over a registered easement is not complying development under this clause.</p> |
| | Complying Development Standards – Consistency between TAFEs and Universities | <p>The University notes that, whereas Complying Development for Universities is addressed via clause 43 (2 pages) and Schedule 3 (4 pages of standards), the Complying Development provisions for TAFEs are simply contained within clause 50 (2 pages) with no Schedule of standards. Universities and TAFEs are not dissimilar institutions. The University therefore requests further information on how the Department differentiates between the roles, standards and performance between TAFEs and Universities.</p> |
| SCHEDULE 3 UNIVERSITIES - COMPLYING DEVELOPMENT | Schedule 3 Standards | <p>Recommendation: The University requests amendment to the following standards contained in Schedule 3 of the draft SEPP:</p> <ul style="list-style-type: none"> • 5. Front setback be clarified by specifying that these setbacks only apply where building front a public road. Setbacks would not be relevant to buildings within the heart of a campus. • 6. Design and materials, criteria (b) be amended by requiring a minimum 10 metre setback for buildings that have no windows. Not all University buildings require windows (laboratory, library, museum, storage facilities). The recommended setback will allow for appropriate landscaping of the site fronting a public road <p>6 Design and materials A new building or an alteration or addition to an existing building must comply with the following: (a) any new external walls or roof of the building must be constructed of non-reflective material,</p> |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none"> • SEPP (Infrastructure) 2007 • SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
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| | | <p>(b) any external walls of the building that face a public road or reserve must contain windows unless that building is setback a minimum of 10 metres from the boundary with a public road.</p> |
| | <p>Principal Certifying Authority & Land Zones: The DPEs <i>Explanation of Intended Effects</i> suggests that Complying Development for Universities:</p> <ul style="list-style-type: none"> • Be limited only to SP1 and SP2 zoned lands; and • can only be assessed by a Principal Certifying Authority that is a local Council. | <p>Recommendation: The University requests that no such limitations be applied to the draft SEPP:</p> <ul style="list-style-type: none"> • Universities, like Schools and TAFEs, occupy land across on all land use zones, not just SP1 and SP2. • The role of any registered PCA should be allowed to assess Complying Development, and not just Councils that serve a PCA function. <p>Attachment B illustrates the range of land use zones occupied by the University buildings other than SP1 and SP2.</p> |
| <p>7. DEVELOPMENT PERMITTED WITHOUT CONSENT (Subject to internal assessment via a REF)</p> <ul style="list-style-type: none"> • 1 storey library or an administration building • 1 storey portable classroom • 1 storey permanent classroom replacing an existing portable classroom • 1 storey tuckshop, cafeteria or bookshop • 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 clearing of more than 2 hectares of native vegetation, or • 1 storey car park • a toilet block • outdoor learning area or play area not involving clearance of more than 2 hectares of land • internal fitouts, or • alterations or additions to address occupational health and safety requirements or to provide access for people with a disability, • restoration, replacement or repair of damaged facilities, • demolition of buildings or structures, • environmental management works. | <p>Refer to draft Education SEPP Clause 40 Same list proposed as existing under the iSEPP.</p> | <p>The University submission notes that the list of University uses listed is very restrictive and does not reflect the fuller range of University uses identified under draft Clause 43 of Complying Development. The list should not be constrained by certain limited uses but by numerical standards and controls relating to height, setbacks and the like. Consequently, the range of uses permissible under draft <i>Clause 40 Universities – development permitted without consent</i> should be expanded to include those also identified under <i>Clause 43 Existing Universities – complying development</i>, including the following:</p> <ul style="list-style-type: none"> • 1 storey environmental facility including a greenhouse or glasshouse • 1 storey storage / maintenance facilities • 1 storey classroom (which does not need to replace a temporary classroom) • 1 storey lecture theatre, • 1 storey laboratory, • 1 storey trade or training facility • 1 storey kiosk • 1 storey hall • 1 storey information and education facility • 1 storey community facility • 1 storey amenities building • 1 storey rural facility associated with Agricultural and Veterinary Science facilities. |
| | <p>Clause 40(1)(b)(ii) allows for <i>minor additions and alterations</i> to buildings but subject to satisfying that the works 'address work health and safety requirements or to provide access to people with a disability'.</p> <p>Clause 40(2) goes on to state: (2) However, subclause (1) applies only to development that: (d) if the development involves an alteration or addition to a building:</p> | <p>This requirement is confusing, especially when read in conjunction with Cl. 40(2)(d), which limits building additions to 2,000m² or 50% building expansion. This clause therefore unnecessarily limits the application of building additions and alterations.</p> <p>Recommendation: The University requests that the:</p> <ul style="list-style-type: none"> • clause 40(1)9b)9ii) reference to address work health and safety requirements or to provide access to people with a disability be |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none"> SEPP (Infrastructure) 2007 SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
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| | (i) does not extend the gross floor area of the existing building by more than 50% , and (ii) does not result in the building having a gross floor area of more than 2,000 square metres, and | deleted to clarify that alterations and additions under many other circumstances can be adopted within the draft SEPP. <ul style="list-style-type: none"> 50% criteria of clause 40(2)(d) is recommended to be deleted. The criteria is too restrictive- especially considering it would unnecessarily limit the use of REF approval to the extensions of very small buildings. |
| 8. DEVELOPMENT APPLICATIONS – any development that is not Exempt, Complying, REF, or SSD | No change. The University notes that the draft SEPP will significantly reduce the workload of small scale Development Applications being lodged with the local council. | |
| 9. STATE SIGNIFICANT DEVELOPMENT Development over \$30 mill CIV. The Dept. Planning is the assessment authority. The Minister for Planning is the consent authority. | Page 20 of DPE's <i>Explanation of Intended Effect</i> paper states: State Significant Development All new schools, and significant alterations and additions to existing schools that have a project cost of more than \$20 million are proposed to be categorised as State Significant Development (SSD). The existing threshold of \$30m capital investment value of development for the purposes of educational facilities to be classified for SSD in Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011 will be amended. The CIV threshold for Universities is currently \$30 million. | Recommendation: In order to avoid unnecessary inconsistency between Schools and Universities, the University requests that SEPP (State and regional Development) 2011, Schedule 1 State Significant Development, clause 15, apply a similar lowering of the SSD threshold for Universities as follows: 15 Educational establishments Development for the purpose of educational establishments (including associated research facilities) that has a capital investment value of more than \$20 million . DPE delegations: The University encourages the Department Assessments department continue to benefit from its existing delegations from the Minister for Planning to either determine directly a SSD or refer it to the Minister for determination. |
| | SSD threshold: draft SEPP <i>Part 4 Schools, Clause 36</i> states: 36. State significant development for the purpose of schools—application of development standards in local environmental plans Development consent may be granted to development for the purpose of a school that is state significant development even though the development would contravene a development standard imposed by the local environmental plan under which the consent is granted. | The University seeks inclusion of a same/similar provision as proposed for Schools by clause 36, for development for the purpose of a University that is State Significant Development. |
| 7. DRAFT EDUCATION & CCF – OTHER DRAFTING ISSUES | Clause 5 Definitions – “State Land” It is not clear whether the definition of “State land” includes land owned by the University because of the particular wording in clause 277(4) of the EP&A Regulations. If land owned by the University were captured by this definition, the University would be able to benefit from clause 14 of the Draft SEPP, clause 14 of the Draft SEPP provides that: <ul style="list-style-type: none"> If development without consent is permitted on land that is adjacent to “State land” then that development may be carried out without consent on the “State land” (other than State land that is zoned for conservation purposes, forestry | In order to benefit from clause 14, the University requests appropriate amendments to either clause 277(4) of the EP&A Regulations and/or the definition of “State land” in clause 5(2) of the Draft SEPP. |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none"> • SEPP (Infrastructure) 2007 • SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
|---|---|--|
| | <p>areas, National Parks and Wildlife reserves or Crown land reserved for a public purpose) even if it would otherwise be prohibited on the State land; and</p> <ul style="list-style-type: none"> ○ If development with consent is permitted on land that is adjacent to “State land” then that development may be carried out with consent on the “State land” even if it would otherwise be prohibited on the State land, however a site compatibility certificate must first be obtained from the relevant planning panel. | |
| | Clause 6 Relationship to other planning instruments | Recommendation: The University seeks DPE amendment to, or clarification of, <i>Clause 6(2) and (3)</i> , which suggests that a University has a choice of what SEPP (iSEPP or Education SEPP) it can seek approval under- this should be clarified. |
| 8. CHILD CARE FACILITIES None specifically exist for Universities | <p>The Draft SEPP brings national regulations for early childhood education into the NSW planning system, obliges consent authorities to take the Child Care Planning Guideline into consideration when assessing development applications, switches off some local planning controls that are inconsistent with the national regulations and provides a new concurrence role for the Department of Education.</p> <p>An amendment to the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> will amend and introduce new definitions into all environmental planning instruments for consistency.</p> | <p>While school-based child care without works will be exempt development (clause 32(1)(i)), new school-based child-care will be complying development (clause 34) and centre-based childcare on TAFE sites will be complying development (clause 50(1)(v)), there is no such approval pathway proposed for Universities.</p> <p>Recommendation: The University recommends the inclusion of exempt and Complying Development provisions for Child Care Facilities to also be extended to Universities under Part 5 of the draft SEPP.</p> |
| 9. SEPP (EXEMPT & COMPLYING DEVELOPMENT CODES) 2008 | Change of Use Insert after clause 5.3 (2): (3) Despite subclause (1), a change in use from a tertiary institution or to a tertiary institution, as specified in category 2 in Columns 1 and 2 of the Table to this clause, is development specified for this code only if the gross floor area of the premises does not exceed 60m². | <p>There is no rationale or reason for this floorspace limit, and very few change of uses will be able to be implemented by this limitation. Furthermore, <i>Subdivision 2 Change of use of premises, clause 5.3</i>, of the existing Codes SEPP does not include such a limitation for any other change of use provisions.</p> <p>Recommendation: The University recommends that part deletion of subclause (3) as follows:</p> <p>(3) Despite subclause (1), a change in use from a tertiary institution or to a tertiary institution, as specified in category 2 in Columns 1 and 2 of the Table to this clause, is development specified for this code only if the gross floor area of the premises does not exceed 60m².</p> |
| 10. EP&A REGULATIONS 2000 Access to Part 5 of the Act for Universities as a <i>Public Authority</i> | <p>Draft clause 277(5) of the <i>Draft Environmental Planning and Assessment Amendment (Schools) Regulation 2017</i> will insert the words “or State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2016” after “<i>State Environmental Planning Policy (Infrastructure) 2007</i>”.</p> <p>This will ensure that Universities, as public authorities, will have access to all relevant divisions of the existing iSEPP as well as the draft Education SEPP.</p> | <p>Legal advice obtained by The University reveals that the EP&A Regulations do not extend the rights of Universities as a public authority to be a determining authority, within the meaning of Part 5 of the Act for development that is permitted without consent, to non-owned University lands - i.e. it excludes land that is leased, occupied or under the control and management of a University.</p> <p>Recommendation: The University recommends that clause 277(4) of the EP&A Regulations be further amended by inclusion of the following</p> |

| WHAT UNIVERSITIES CURRENTLY ACCESS <ul style="list-style-type: none">• SEPP (Infrastructure) 2007• SEPP (Exempt & Complying Development Code) 2008 | WHAT THE DRAFT SEPP EDUCATION & CHILD CARE PROPOSES FOR UNIVERSITIES | UNIVERSITY REQUEST FOR CHANGES TO THE DRAFT SEPP |
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| | | <p>additional words, and which should achieve the objective of extending the ability to make Part 5 determinations on all the University's campuses and not just land that the University owns:</p> <p>"For the purpose of the definition of <i>public authority</i> in section 4 (1) of the Act, the following universities are prescribed, but only so as to allow each university to be a determining authority within the meaning of Part 5 of the Act for development that is permitted without consent on land vested in the university, under a provision of <i>State Environmental Planning Policy (Infrastructure) 2007</i> or <i>State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</i>."</p> |

ATTACHMENT B

The University of Sydney

Examples of Land Use Zones accommodating University Buildings & and Facilities

Explanation: The Department of Planning & Environment (DPE) has requested the University to provide examples of University buildings and facilities that are contained in Council land use zones that are not zoned SP1 Special Activities or SP2 Infrastructure (Educational Establishment). The list is requested to assist the DPE in defining the range of land use zones applicable to universities under the *draft SEPP (Educational Establishments and Child Care Facilities) 2017*. Consequently, the University's Camperdown and Darlington campuses (both zoned SP2) are not included in the following table.

| University | Zone | Location (incl. LGA) | Description of Use |
|--------------------------|-------------------------------|---|---|
| The University of Sydney | R3 Medium Density Residential | Ballina LEP 2012 78-92 Cherry Street, Ballina | Ballina District Hospital Dental Clinic |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 Forest Lodge – Arundel Street | Margaret Telfer, Mackie, and Arundel Street buildings – various educational establishment and administration uses |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 Consolidated site on Burren & Watkins Streets, Newtown | Shepherd Centre, University Administrative Services, University Child care, Shepherd Centre |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 Abercrombie Street Darlington | Institute of Transport & Logistics. |
| The University of Sydney | B4 Mixed Use | City of Sydney LEP 2012 92-96 Parramatta Road, Camperdown | Medical Foundation Building |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 6-26 Parramatta Road, Camperdown | Educational establishment mixed uses and student accommodation |
| The University of Sydney | B7 Business Park | City of Sydney LEP 2012 1-3 Ross Street, Forest Lodge | University administrative & student services |
| The University of Sydney | B1 Neighbourhood Centre | City of Sydney LEP 2012 21 Ross Street, Forest Lodge | University administrative & student services |
| The University of Sydney | B4 Mixed Use | City of Sydney LEP 2012 32 Queen Street, Chippendale | ACFR, Engineering |
| The University of Sydney | B8 Metropolitan Centre | City of Sydney LEP 2012 Conservatorium Road/Macquarie Street, CBD | Sydney Conservatorium of Music, |
| The University of Sydney | B8 Metropolitan Centre | City of Sydney LEP 2012 133 Castlereagh Street, CBD | MBA Business School |
| The University of Sydney | B8 Metropolitan Centre | City of Sydney LEP 2012 8 Macquarie Street, CBD | Ophthalmology & Eye Hospital |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 431 Glebe Point Road | Woolcock Institute |
| The University of Sydney | R1 General Residential | City of Sydney LEP 2012 123 Ferry Road | University boatshed |
| The University of Sydney | B4 Mixed Use | City of Sydney LEP 2012 48 Carillon Avenue, Newtown | Carillon Child Care Centre |

| University | Zone | Location (incl. LGA) | Description of Use |
|--------------------------|--|--|---|
| The University of Sydney | B8 Metropolitan Centre | City of Sydney LEP 2012 2-18 Chalmers Street, Surry Hills | Faculty of Dentistry |
| The University of Sydney | B4 Mixed Use | City of Sydney LEP 2012 400 Harris Street, Ultimo | USyd Data Centre, Global Switch |
| The University of Sydney | R3 Medium Density Residential | Holroyd LEP 2013 East Street, Weeroona Road, Joseph Street (A6), Lidcombe | Cumberland Campus, Lidcombe – Faculty Health Sciences and various sporting facilities (entire) |
| The University of Sydney | Public Purpose | Leichhardt LEP 2000 Callan Park, Lilyfield | Sydney College of the Arts |
| The University of Sydney | R1 General Residential | Leichhardt LEP 2000 1-4 Glover Street, Lilyfield | Arts & Social Sciences |
| The University of Sydney | R3 Medium Density Residential | Lismore LEP 2012 Bounded by Uralba and Dalziel Streets | Medical Health Faculty campus (adjoining Lismore Hospital) Simulated Learning Environment Building |
| The University of Sydney | R2 Low Density Residential | Marrickville LEP 2011 1 Croydon Park, Croydon Park | Health Sciences; Croydon General Practice |
| The University of Sydney | B7 Business Park | Moree Plains LEP 2011 5 Greenbah Road, Moree | Australian Centre for Agricultural Health & Safety |
| The University of Sydney | RU1 Primary Production | Narrabri LEP 2012 Newell Highway | Faculty Agriculture; Faculty Vet Sciences |
| The University of Sydney | RU1 Primary Production | Narrabri LEP 2012 366 Killarney Gap Road | Faculty Agriculture; Faculty Vet Sciences |
| The University of Sydney | B4 Mixed Use | Parramatta LEP 2011 162 Marsden Street, Parramatta | Western Sydney Sexual Health |
| The University of Sydney | B4 Mixed Use | Parramatta LEP 2011 20-22 Macquarie Street, Parramatta | Gambling Treatment Clinic |
| The University of Sydney | B4 Mixed Use | Penrith LEP 2010 29-33 Rogers Street, Kingswood | Nepean Student Accommodation |
| The University of Sydney | B4 Mixed Use | Penrith LEP 2010 62-68 Derby Road Kingswood | Clinical School; Medical Centre |
| The University of Sydney | RU2 Rural Landscape E2 Environmental Conservation | Penrith LEP 2010 McGarbie Smith & Fleur Farms, adjoining Badgerys's Creek | Faculty Agriculture; Faculty Vet Sciences |
| The University of Sydney | E3 Environmental Management | Wingecarribee LEP 2010 1 Canyonleigh Road, Arthursleigh, Mount Pleasant | Faculty Agriculture; Faculty Vet Sciences |
| The University of Sydney | RU1 Primary Production | Wollondilly LEP 2011 Stanhope Road | Faculty Agriculture; Faculty Vet Sciences |

ATTACHMENT C

The University of Sydney

Draft SEPP (Educational Establishments & Child Care Facilities) 2017

University Student Accommodation

UNIVERSITY POSITION:

Clause 38 of the draft *SEPP (Educational Establishments and Child Care Facilities) 2017* ("draft SEPP") proposes to exclude student accommodation from development for the purpose of a University such that the University could not make use of the planning pathways under the draft SEPP in respect of its student accommodation.

38 Development for the purpose of student accommodation

In this Part, development for the purpose of a University does not include development for the purpose of student accommodation associated with a University, regardless of whether, or the extent to which, the University is involved in, or exercises control over, the activities and life of the students living in the accommodation.

The University requests that draft clause 38 be deleted.

The Department of Planning & Environment (DPE) has requested that the university provide further details in justifying the university's case for why University student accommodation is deemed to be development for the purpose of a university.

UNIVERSITY JUSTIFICATION

The following discussion on University student accommodation applies to student accommodation that is owned and managed by universities. The discussion does not extend to independent and privately owned and managed student accommodation premises.

1. Intention of the draft SEPP:

The DPE document *Explanation of Intended Effect* confirms key aims of the draft SEPP:

The proposed SEPP will:

- simplify and standardise the approval process for child care facilities, schools, TAFEs and universities, including broadening the range of development that can be undertaken as exempt development and complying development,
- set out clear planning rules for these developments, including where they can be built, what development standards apply, and consultation requirements, and
- establish state-wide assessment requirements and design considerations to improve the quality of these facilities and to minimise impacts on surrounding areas.

The draft SEPP is targeting streamlined planning approval pathways to universities for low impact and low scale forms of development via:

- Exempt development
- Complying development; and
- Development permitted without consent.

The pathways for Development Applications and State Significant Development Applications (i.e. development permitted with consent) remains unaltered.

It therefore makes good sense that all forms of low scale and low impact development associated with *educational establishments* be wholly consolidated and contained within a single planning instrument, as is proposed by the aims of the draft SEPP.

2. Ancillary Uses:

A University place or campus that is, for example, zoned SP2 Infrastructure will typically contain the following clause:

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is **ordinarily incidental or ancillary** to development for that purpose

Ancillary Development – the Department of Planning & Environment, states under Planning Circular PS 13-001, that:

An ancillary use is a use that is subordinate or subservient to the dominant purpose.

- If a component serves the dominant purpose, it is ancillary to that dominant purpose.
- If a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.

In the Standard Instrument Dictionary: mixed use development means a building or place comprising 2 or more different land uses.

The University argues that student accommodation that is owned and managed by a university is serving the dominant educational establishment purpose of a university in its pursuit for teaching, learning and research pedagogy.

A legal interpretation, Gadens Lawyers November 2012

*An **ancillary use** may include the use of land for an industrial use where only retail uses are permitted, as was the factual circumstance in *Mollica v Marrickville Municipal Council* ((1969) 19 LGRA 24). Such a use can only occur if (and only if) the industrial use remains “ancillary” to the retail use and does not become an independent, dominant or separate use.*

The law recognises that lawful ancillary development to a dominant use of land can be one that is otherwise prohibited in the zone.

That is, uses that would ordinarily be prohibited according to the planning controls on their own, but which are incidental or ancillary to an approved dominant purpose, can sometimes lawfully be carried out on the land.

3. On campus or off campus?

The University argues that student accommodation that is owned and managed by universities applies to sites both on and off campus. A campus typically includes a collective or cluster of educational establishment buildings within a specific lot boundary. It does not however preclude other university buildings that adjoin, or are in close proximity, to a university campus.

For example, the University's various *educational establishment* buildings in Forest Lodge (University administrative services, child care and student accommodation), are not strictly within the Camperdown campus boundary, but are within close walking and visual distance being only separated by Parramatta Road.

Notwithstanding, University student accommodation buildings are typically located within close proximity to university *educational establishment* buildings so as to afford university students with the campus experience and life education provided during their tenure.

4. Mixed Use Development:

University student accommodation typically comprises mixed-use accommodation buildings set within or adjoining a consolidated lot campus, and supported by a wide variety of teaching, learning, recreational, sporting, retail, professional services, and open space facilities.

University student accommodation supply is distinct with student expectations and requirements differing greatly from typical boarding house or private rental occupants. University accommodation also offers an environment where student life and pastoral care programs are focused on getting students to leave their rooms and interact with the wider accommodation and campus community.

Initial discussion with DPE staff suggests a likening of University student accommodation with boarding house and residential developments. There are a number of key differences between University Student Accommodation and the Private Purpose Built Student Accommodation (PBSA) Market:

- The University is a Crown applicant and registered charity.
- University student accommodation is typically within or near 'campus', and typically comprise a collegiate residential hall style, open to all students, and benefits from directly accessible communal facilities both within the new developments and from a very broad range of surrounding campus facilities (education, research, wellbeing, open space, sports, cultural, retail). A University campus itself also supports the wide range of surrounding commercial, business,

recreational and open space facilities established within the surrounding precincts/suburb.

- University student accommodation is not simply a bed for the night but is designed to be an instrumental contributor to the learning experience of the student. The accommodation building also typically includes teaching suites, quiet study / learning hubs and unique areas designed to encourage involvement in innovative domains including hacker and maker spaces complete with 3D printing suites and access to VR and high performance computers, and pitching Ted X style theatres forums.
- A University provides an expansive student life and pastoral care program designed around a focus on student wellbeing and education provided by dedicated on site residential life managers, coordinator's and Student Accommodation Services.
- University accommodation portfolios are run on a 'not for profit' basis with any net income subsequently directed towards accommodation scholarships, further rent reductions, or related campus programs.

5. Precedent:

The DPE and local Councils have accepted, considered, assessed and approved a number of University student accommodation developments as State Significant Development, Major Project or Development Application. In all cases, the student accommodation was considered to comprise part off the *educational establishment* afforded by the University.

For example, recent examples at The University of Sydney includes:

- Abercrombie Student Accommodation, Abercrombie Street, Darlington campus (approved by Minister for Planning)
- Queen Mary Building, Camperdown (approved by City of Sydney Council)
- Regiment mixed-use student accommodation, Darlington campus (under DPE assessment)
- Darlington Terraces mixed-use student accommodation, Darlington campus (under DPE assessment)

6. Traffic & Parking Impacts:

At our recent meeting with DPE, the Department questioned the impact of traffic and parking upon University student accommodation provision when dealing with Exempt and Complying Development.

The University clarifies that generally, where student accommodation is provided on or near campus, we do not provide parking within the building for student residents, due to the accommodation containment within/proximity to campus, and campus proximity to public transport services.

CONCLUSION & RECOMMENDATION

The University requests the Department of Planning & Environment to:

1. delete clause 38 contain with the draft *SEPP (Educational Establishment & Child Care Facilities) 2017*; and
2. accept an invitation to visit the University's student accommodation projects in order to appreciate the bespoke educational establishment function that they perform.