

Our Reference: 1127 NA: DS

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

7 April 2017

Dear Sir/Madam,

SUBMISSION BY WOLLONDILLY SHIRE COUNCIL DRAFT STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017

This letter contains Wollondilly Shire Council's (Council) submission on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 which is currently on exhibition.

Council is very supportive of the principle of stimulating the provision of child care services and investment in educational facilities and infrastructure.

Council is also supportive of the integrated approach to the assessment of child care facilities and of the provisions to better enable schools and tertiary institutions to undertake works through an easier and less restrictive approval process.

Please find specific comments in relation to the proposed SEPP and supporting documentation below.

Standard Instrument Amendment (Local Environmental Plans) Amendment Order (No 2) 2016

- To reduce confusion, definitions that require a reference to other legislation should include a reference note at the bottom of the page with the exact definition provided.
- Council supports the changes to the definition of "childcare centre" to identify a "home based child care" as a standard service type.

Draft Childcare Planning Guidelines

- The introduction of design requirements (through the Child Care Planning Guidelines) is supported.
- The proposed Guidelines will provide a valuable tool for assessing development applications and will ensure compliance with the National Quality Framework is achieved upfront, thus reducing potential delays in the process. However there is concern that while they are ideal for the assessment of new buildings, they are not easily transferrable to applications for adaptive reuse.

Development Standards for Home Based Childcare on Bushfire Prone Land

- In relation to allowing home based child care on bushfire prone land as exempt development, Council supports this approach and note that bushfire safety plans (or the like) will be required. This appears to be a sound approach and Council supports its implementation as a user-friendly system that encourages family day care operators to set up new services.
- Access to mapped locations of fire hydrants is currently an issue for this Council. GIS mapping data is only provided on a quarterly basis and is not available to the public. To accurately assess whether a dwelling is within 60m of a hydrant, current data needs to be made publicly available.

Planning Circular Regulating the Expansion of Schools – Setting Caps on development consents – best practice for consent authorities

- If outcome based conditions of consent are to be utilised there needs to be greater agreement and compliance from government departments and agencies. Currently Council has trouble ensuring conditions relevant to the development are agreed and acted upon.
- The guidance provided for setting caps as a condition of consent appears reasonable. However, Council's current practice of setting a cap as a condition of consent directly relies on the detail and evidence submitted as part of the development application. Therefore if future expansion is to be a consideration as a condition of consent then information supporting a growth scenario should be included in the specialist studies provided by the applicant.
- To ensure conditions of development consent are consistent across the State it is recommended that a set of standard conditions of consent be developed.

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

- Provisions to allow schools to adopt the zoning of adjoining land may result in the future loss of surplus educational land to a higher more valuable use of the land.
- Council has no objection to allowing new school buildings up to four storeys (or 22m) in height as complying development so long as it does not conflict with the Local Environment Plan that applies to that land.
- Retaining Council involvement in the assessment of works carried out as complying development is supported in principle however the scope of what will be permissible extends beyond the original intention of complying development.

NSW Code of Practice for Part 5 Activities – For registered non-government schools

- The proposed "approval" via Code appears to be contrary to the Environmental Planning and Assessment Act 1979 Part 5 s110 and 110A in which a determining authority is defined as
"a Minister or public authority and, in relation to any activity, means the Minister or public authority by or on whose behalf the activity is or is to be carried out or any Minister or public authority whose approval is required in order to enable the activity to be carried out" and a nominated determining authority is defined as an *"authority nominated by the Minister in accordance with section 110A in relation to the activity."*

In the case of a non-government school there is no relevant "Minister" or "determining authority" of which the Minister can nominate. Council does not consider that "self-approval" by non-government schools is satisfactory.

Should you require any further information on the submission please contact Nicole Aiken from Council's Strategic Planning team on (02) 4677 9746, or by email at nicole.aiken@wollondilly.nsw.gov.au

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Chris Stewart'.

Chris Stewart
Director Planning