

26 April 2017

Our Ref: 09/40-02

Contact: Michael McCabe, Director – City Futures

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

Dear Sir / Madam,

Re: Bayside Council Submission – Draft Education and Child Care SEPP

Thank you for the opportunity to respond to the NSW Department of Planning and Environment's exhibition of the *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

Council has reviewed the draft SEPP and the accompanying information, and has prepared this submission.

Council acknowledges the intent of the Draft SEPP and supports the initiative to establish an over-arching planning framework for the guidance and regulation of developments for early childhood care and education, school, university and TAFE institutes.

However, a number of key issues have been identified which require further consideration by the Department. These issues are explained in detail in the body of the submission. Where there is no comment on a particular subject, it could be assumed that Council has no significant concerns with what has been proposed and could be construed as general support.

If you have any queries regarding this submission, please do not hesitate to contact Michael McCabe (Director - City Futures), on 9562 1689 or at michael.mccabe@bayside.nsw.gov.au.

Yours faithfully,



Meredith Wallace
General Manager

Mascot Customer Service Centre

141 Coward Street
Mascot NSW 2020, Australia
ABN 80 690 785 443 Branch 004
DX 4108 Maroubra Junction



Telephone Interpreter Services - 131 450

Rockdale Customer Service Centre

444-446 Princes Highway
Rockdale NSW 2216, Australia
ABN 80 690 785 443 Branch 003
DX 25308 Rockdale

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمه الترجمة الهاتفية

電話傳譯服務處

Служба за преведување по телефон

T 1300 581 299 F 02 9562 1777

E council@bayside.nsw.gov.au

W www.bayside.nsw.gov.au

Postal address: PO Box 21 Rockdale NSW 2216

Bayside Council

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

1.0 GENERAL COMMENTS

Council welcomes the initiative to establish an over-arching planning framework for the guidance and regulation of developments for early childhood care and education, school, university and TAFE institutes. In particular, the following aspects of the draft SEPP are supported:

- The preparation of a new SEPP to consolidate and refine controls for educational and child care developments that apply consistently throughout the State.
- The standardisation of the approval processes for child care, school and tertiary educational facilities.
- The attempt to rationalise the various approval pathways, including exempt development, development permitted without consent, complying development, local development and State significant development, which are commensurate with the nature, scale and complexity of the works.
- The alignment of the NSW planning provisions with the National Quality Framework for Early Childhood Education and Care Facilities, so as to ensure the national regulations are considered upfront at the development application stage.
- The preparation of State-wide assessment requirements and design considerations to improve the quality of early childhood care and education facilities.

In reviewing the Draft SEPP and supporting documents, a number of issues have been identified, which may have a significant impact on the amenity of the local environment, and the health and well-being of occupants of the future educational facilities. The following key matters are drawn to the Department's attention:

- Council strongly objects to the making of centre-based child care a permissible use within industrial zones (IN1 and IN2) due to concerns regarding risks to the health, safety and well-being of children and staff attending facilities within industrial areas, and around the Botany Industrial Park and the Denison Street dangerous goods route.
- For similar reasons, Council has concerns that the draft SEPP would allow expansion of an existing school to the adjacent land subject to development consent, even when the adjacent land is zoned for industrial purposes (i.e. a non-prescribed zone). It should be noted that there are existing schools located in close proximity to industrial lands in Bayside, including Banksmeadow Primary School on Stephen Road and Matraville Primary School at the corner of Bunnerong Road and Beauchamp Road. The map in Appendix 1 shows the existing schools in Bayside which are located adjacent to the Botany Industrial Park and the Denison Street dangerous goods route.
- The APA Group high pressure gas transmission pipelines run across the Bayside LGA. There are concerns that the proposed exempt and complying development provisions in the Draft SEPP would permit early childhood and school developments within or in

close proximity to the easements and Measurement Lengths of the APA pipelines, without due consideration to the risks to health and safety of children and staff members.

- Council objects to the provision of sports fields and recreational facilities involving clearance of native vegetation of up to 2 hectares as exempt development due to environmental impacts.
- The Draft SEPP states that centre-based child care developments are permissible on sites of any dimensions and size. The identification of site area, site coverage and site dimensions as non-discretionary development standards, which cannot be used as a reason for refusing consent is considered unreasonable.
- Whilst the Draft Child Care Planning Guideline aims to establish State-wide benchmarks for child care developments, the provisions are simplistic and lack practical guidance for design. The Guideline in its current form would not enable high quality developments and is not supported.
- The draft provisions to allow new buildings or alterations and additions to existing buildings of up to 4 storeys / 22m as complying development are inadequate, and fail to consider the likely impact on the local character, streetscape and amenity of the surrounding uses.
- The proposed Design Quality Principles for school developments should be supplemented and interpreted by comprehensive design guidance. The reliance on a written statement from a qualified designer in verifying compliance with those principles is not deemed adequate or sufficient to ensure good design outcomes.
- Many school sites in the Bayside LGA are heritage listed. The formulation of exempt development provisions should have due regard to their potential impacts on the heritage significance of these sites.
- There is scope to further rationalise the various approval pathways having regard to the scope of works, risks and potential impacts.
- The manner the Draft SEPP is structured and drafted is cumbersome and difficult to navigate. There are opportunities to improve the legibility of the document.

2.0 SITE COMPATIBILITY CERTIFICATES

Under Clause 14(2) of the Draft SEPP, a development for educational purposes, which is permitted without consent in a zone, will automatically be permitted without consent on any adjacent prescribed State land despite any provisions in an LEP.

Additionally, under Clause 14(3) of the Draft SEPP, a development permitted with consent in a zone may be carried out with consent on the adjacent land despite any provisions of an LEP, provided a site compatibility certificate has been issued (and the adjacent land was prescribed State land when the certificate was issued).

Council is concerned that the above provisions would permit early childhood care and school developments within industrial zones, which are deemed unsuitable for such purposes due to risks to health and safety. Refer to the following paragraphs for further details.

3.0 EARLY CHILDHOOD EDUCATION AND CARE FACILITIES

3.1 Permissibility of Centre-Based Child Care in Industrial Zones

- Council strongly objects to the proposed permissibility of centre-based child care within IN1 General Industrial and IN2 Light Industrial zones with consent. Child care centres are currently prohibited in industrial zones under both the Botany Bay and Rockdale LEP's. There are concerns regarding risks to the health, safety and well-being of children and staff attending facilities within industrial areas.
- The heads of consideration outlined in Clause 22(2) are general and are not supported by any specific industry or quantified standards relating to pollution and health impacts (e.g. exposure standards to air emissions; odour; noise from industries, machinery, roads, railways and aircrafts; electromagnetic energy and wind speed etc.) in the Draft Child Care Planning Guideline. Risks from freight traffic and the transportation of dangerous goods have not been taken into account. The heads of consideration are not considered sufficient to address and neutralise the risks.
- The proposal would also have adverse impacts on the viability of industrial uses within Industrial zones, particularly those that support Sydney Airport and Port Botany. Their operation may be constrained by any future child care developments within the zone.

3.2 Alignment with National Quality Framework

Council supports the alignment of the Draft SEPP with the controls under the National Quality Framework for Early Childhood Education and Care Facilities. However, the following issue is raised:

- Clause 20(1) provides for a concurrence role for the Department of Education to review development applications that do not satisfy the indoor and outdoor unencumbered space requirements of the National Quality Framework. The criteria for considering any deviation from the above requirements have not been specified. There are concerns that this provision would compromise design quality and result in sub-standard developments.

3.3 Local Development

3.3.1 Non-Discretionary Development Standards

Clause 23 stipulates a set of non-discretionary development standards. These are standards, which if complied with, will prevent the consent authority from imposing more onerous requirements or refusing a proposal for those matters. The following concerns are raised:

- The Draft SEPP provides that development may be located at any distance from an existing or proposed early childhood facility. There is no limit to the number of early childhood facilities within proximity to each other. As such, cumulative impacts in terms of traffic generation, parking, noise and streetscape as a result of clustering of facilities could not be taken into account in assessing a DA. It is emphasised that the above are valid considerations. However, commercial competition may be made a reason that cannot be used to refuse a development consent.
- The removal of site area, site coverage and site dimensions requirements are not supported. These are critical considerations for determining whether: (a) a site is suitable for a child care facility; (b) a design is compatible with the local character; (c)

there is sufficient space for setbacks, open space, landscaping and vehicular access; and (d) options for mitigation measures to protect the amenity of the adjoining properties.

- The Draft SEPP provides that development may be of any colour scheme unless the site is a heritage item or within a conservation area. The proposal fails to take into account sites that are in the vicinity of a heritage item, a conservation area or a contributory item within a conservation area. In any case, the inability to assess a development having regard to the local and streetscape character is of concern.

3.3.2 Development Control Plans – Provisions that Do Not Apply

Under the Draft SEPP, a provision in a DCP that specifies a requirement, standard or control in relation to matters set out in Clause 24 will not apply.

- Clause 24(1)(b) sets aside any DCP requirements for a plan of management. A plan of management is an important document for regulating the operation of a child care centre, especially regarding the management of amenity impacts on the neighbouring properties. A plan of management often works in conjunction with an acoustics report that outlines specific mitigation measures. The removal of this requirement will severely erode the effective management of a development.
- As will be discussed in the following paragraphs, the provisions relating to fencing, ventilation and natural lighting are not considered to be adequate in their current form.

3.3.3 Draft Child Care Planning Guideline

The intent of preparing a State-wide planning guideline for child care facilities with standardised controls is acknowledged. However, there is expectation that such a guideline should represent industry best practice and should provide comprehensive guidance for child care operators, designers and council officers.

The following general issues with Part 3 *Matters for Consideration and Design Criteria* of the Draft Guideline are noted:

- The Design Criteria in their current form are too general and lack practical guidance.
- The design issues identified in the explanatory paragraphs are not addressed in the actual Design Criteria.
- There is scope to improve the structure of the Design Criteria. There should be a clear objective statement, supported by controls that are deemed to satisfy the objective, as well as a set of design guidance / alternative solutions if the controls cannot be met in part or in full. Consideration should be given to adopting the structure of the Apartment Design Guide.
- The sequence of the controls should be more logical and reflect the design process. Currently, site planning requirements are not established upfront; built form provisions are placed near the end; and vehicular entry and car parking provisions are separated.
- More drawings and diagrams are needed to illustrate the controls.

A possible option is for the Design Criteria to be used as a guide or benchmark for councils to prepare their own DCPs for child care facilities, rather than overriding DCP controls. In any case, the Guideline should not invalidate any heritage provisions in local council's DCPs.

The specific issues with the Draft Guideline are outlined below:

Part	Subject	Comments
2.7	Outdoor Environment	<p>The caption to Figure 2-33 states that “<i>Simulated outdoor environments are only permitted under approval by the Department of Education.</i>” The Guideline needs to clarify whether this forms part of a concurrence process, or part of a Service Approval after development consent has been issued.</p> <p>The above provision should be included in the main text.</p>
3	Overarching Design Criteria	<p>The Overarching Design Criteria and the Design Quality Principles for schools in Schedule 4 of the Draft SEPP could be aligned with each other, as they relate to similar issues.</p>
3A	Location	<p>The Guideline should include requirements for a contamination report for any adaptive re-use of former industrial or warehouse buildings, and for proposed child care facilities on sites suspected to be contaminated.</p> <p>Clear guidance regarding site suitability should be given. In this respect, the following issues are identified:</p> <ul style="list-style-type: none"> • It is preferred for the site to be in proximity to public parks and community facilities. • The following locations are not considered to be suitable for centre-based child care developments: <ul style="list-style-type: none"> - Sites on or adjoining industrial land (including within 500m of the Botany Industrial Park). - Sites on B-double routes. - Sites identified within the study area of the Denison Street Land Use Safety Study Review of Planning Controls report. (refer to: http://www.botanybay.nsw.gov.au/Planning-Business/Risk) - Sites near the APA high pressure gas transmission pipeline. - Sites requiring direct vehicular access from a classified road or having a single frontage to a classified road. - Cul-de-sacs or dead-end roads. - Flood prone land. - Sites within or adjacent to contaminated land. - Sites adjacent to or within the visual catchment of drug clinics or brothels. - Sites at or above the 25 ANEF contours. <p>Specific guidance should be given to determining the suitability of high rise buildings for centre-based child care. Issues such as access, safety and fire egress should be addressed in detail.</p>

Part	Subject	Comments
3B	Building Envelopes	<p>The control stipulates that street setbacks shall be the average between the two immediate adjoining buildings (where there are existing buildings within 50m). It does not consider the wider streetscape pattern and any desired future character which may require increased setbacks.</p> <p>The side and rear setbacks should be in accordance with controls for the zone in which the site is located under a relevant DCP. For instance, where the site is located amongst detached dwellings in a low density residential zone, the DCP setback controls for this type of housing should apply to the proposed development.</p>
3C	Landscaped Area	<p>The Guideline should stipulate minimum requirements for landscaped areas and deep soil areas. They may take the form of a percentage of the site area on a sliding scale, so that developments on larger sites will be required to provide more landscaping. The above numerical controls should be formulated having regard to the nature of the land use zone.</p> <p>It is noted that issues discussed in the explanatory paragraphs, such as planting for shade, furniture and play equipment, do not have corresponding Design Criteria.</p> <p>A minimum mature height of 2m for the required perimeter planting (point 2) may not be sufficient for privacy screening purposes, depending on the height of the building and the site topography.</p> <p>The minimum width of buffer / perimeter planting should be specified.</p> <p>The provisions in this section should only relate to landscape design concept, and should not supersede any detailed tree management, planting, biodiversity and related stormwater management controls in councils' DCPs or technical specifications.</p>
3D	Local Character and Context	<p>The Design Criteria only require the submission of a design statement and are not adequate, nor sufficient, to ensure a development is suitable for the site and integrates with the local context. Detailed principles should be developed.</p> <p>The Guideline should require the submission of detailed site and streetscape analysis for further assessment by the consent authority. The Design Criteria should specify a list of information to be shown on such analysis drawings.</p> <p>The mere submission of site analysis documents should not be construed as being compliant with the Design Criteria. The documents are only supporting information for assessment purposes.</p>

Part	Subject	Comments
3E	Public Domain Interface	<p>Front fencing design and alignment should address heritage issues if the site is listed as a heritage item, located adjacent to a heritage item or located within a conservation area.</p> <p>It is preferred that children's play areas are not located within the front setback, especially if the site fronts onto a main road.</p> <p>The use of level difference to differentiate between the public and private domains is not mentioned.</p>
3F	Pedestrian and Vehicle Access	<p>The provisions in the explanatory paragraphs are not fully incorporated into the Design Criteria; they include widths of pedestrian paths and entries to basement car parks.</p> <p>The Design Criteria in this section are general and should not supersede the technical vehicular access requirements in councils' DCPs and the Australian Standards.</p> <p>The Design Guidance should require the submission of a traffic assessment report and/or traffic management plan at the discretion of the council.</p>
3G	Orientation	<p>This section should be revised to provide a comprehensive set of site planning requirements. Other issues that need to be considered include the retention of existing public views to parks and waterbodies.</p> <p>The protection of solar access to the adjoining residences should form a separate control. It is recommended that reference be made to the Apartment Design Guide and councils' DCP provisions relating to protection of solar access, in lieu of creating a new set of controls.</p>
3H	Visual Privacy	Diagrams should be used to illustrate the controls.
3I	Acoustic Privacy	<p>The Design Criteria are too specific and do not allow consideration of individual site characteristics.</p> <p>The provisions should require the submission of an acoustics report and plan of management to detail design and management measures for a proposed development.</p>
3J	Noise and Pollution	<p>There are no controls relating to pollution despite the section title. Such controls are paramount, particularly for the Bayside LGA given the nature of industrial land uses in the area, including Port Botany.</p> <p>The provisions should require the submission of an acoustics report to detail noise mitigation measures specific to a development proposal.</p>

Part	Subject	Comments
		Relevant standards relating to air emissions, noise (from industries, machinery, roads, railways and aircrafts), electromagnetic energy and wind speed should be incorporated.
3K	Accessible Design	The Design Criteria provide that <i>"All key areas of the site are to be linked by pathways that are accessible..."</i> Clarification is sought as to what constitutes "key areas".
3L	Car and Bicycle Parking	<p>Bicycle parking is not mentioned in the Design Criteria.</p> <p>Centre based child care facilities should provide their own drop-off and pick-up spaces. The reliance upon on-street parking is not supported. In mixed-use developments, consideration may be given to shared use of car parking spaces, subject to a development specific traffic / parking assessment.</p> <p>A number of matters raised in the introductory paragraphs are not reflected in the Design Criteria. Regardless, the provisions are very generic and are less comprehensive than Council's DCP controls for car parking.</p>
3M	Form and Articulation	<p>Architectural form, modelling, façade articulation, colour scheme and materiality are critical elements that determine the design quality of a development and affect the character of the surrounding areas.</p> <p>However, the Design Criteria primarily rely on the submission of a design statement as proof of compliance with the control. This is considered to be inadequate in ensuring an appropriate level of design excellence will be achieved. Such a statement is also likely to be subjective in practice.</p> <p>A comprehensive suite of controls and guidance is needed.</p> <p>Advertising and identification signs should be subject to controls in the relevant DCP.</p>
3N 3O	Energy Efficiency Water Management & Conservation	<p>The Design Criteria are simplistic and weak. They should elaborate on the matters stated in the introductory paragraphs.</p> <p>More guidance on measures for optimising natural lighting and ventilation should be given.</p>

3.4 Exempt Development

3.4.1 Mobile Child Care

Clause 25 provides that mobile child care is an exempt development if it satisfies the relevant requirements.

- The Draft SEPP should stipulate requirements for the type of locations or premises which are deemed suitable for mobile child care. This is to ensure that mobile child care is suitably located and will not result in unreasonable impacts on the surrounding areas.
- Clause 25(2) specifies standards for the erection of temporary structures associated with mobile child care. Clause 25(2)(d) states that a proposal “*must meet any development standard imposed by a local environmental plan applying to the land that sets a separation distance to a side or rear boundary with adjoining land that is under different ownership*”. It should be noted that setbacks and separation distance controls are generally contained in a DCP and not in an LEP.

3.4.2 Emergency or Temporary Relocation of Child Care

Clause 26 provides that the emergency relocation of an early childhood education and care facility is exempt development if it satisfies the relevant requirements.

- The Draft SEPP should provide guidance on the type of locations which are deemed suitable for a temporary child care facility.
- It is considered that a 12-month period for a temporary child care facility to occupy a premise or site is too long. It is suggested that this period be shortened to 6 months. A DA may be lodged to extend the above timeframe.

3.4.3 Home-Based Child Care

It is proposed to make home-based child care exempt development on all land, via removal of the bush fire prone land restrictions from the SEPP (Exempt & Complying Development Codes); a range of fire safety standards will be inserted in the above SEPP.

- It is suggested that a clause be inserted to mandate an Accredited Certifier to certify the fire safety measures required under the Codes SEPP (including Asset Protection Zone, Bush Fire Emergency Management Plan and Evacuation Plan, etc.) prior to obtaining a Service Approval from the Department of Education.

4.0 SCHOOLS

4.1 Exempt Development

It is proposed to transfer the existing exempt development provisions in the SEPP (Infrastructure) 2007 into the new instrument and broaden their coverage, so as to expedite the upgrading of school facilities.

- Council strongly objects to the provision of sports fields and courts involving clearance of up to 2 hectares of native vegetation as exempt development. The Bayside LGA has known endangered and threatened ecological communities and species. Furthermore, the clearing of native vegetation to the proposed permissible extent could have significant adverse landscape and environmental impacts, especially in a highly urbanised setting like Bayside. For example, Banksmeadow Public School has an area of Endangered Ecological Community, Eastern Suburbs Banksia Scrub, where regeneration works have been undertaken. Under the Draft SEPP, this could be cleared under exempt development.
- Efforts should be made to minimise disturbance and clearing of native vegetation, especially in highly urbanised areas like Bayside. Assumptions cannot be made on the

basis that all schools are clear and do not contain any locally significant areas of native vegetation and green space.

- Many school sites and buildings are listed as heritage items in the Bayside LGA. There are concerns that the Draft SEPP does not give sufficient consideration to the protection and enhancement of heritage significance of the schools. In particular, Clause 15(3)(e) does not define what constitutes “*minimal impact on the heritage significance of the item or area*”, nor requires a heritage impact assessment to be undertaken prior to commencement of works.
- Council considers that some items under Clause 32(1) and Schedule 1 are not suitable to be classified as exempt development, if the site or building is heritage listed and a conservation management plan is not available. In such cases, they should be re-categorised, at a minimum, as development without consent so that formal assessment and consultation with local councils will be carried out. They include:
 - New permanent buildings, including amenities, workshops, sheds and carports.
 - External alterations and additions, including awnings and canopies.
 - Painting and plastering of external walls involving changes to colour scheme and finishes / textures.
 - New car parks involving removal of landscaping.
 - Front fences.
 - Identification and community information signage.

4.2 Development without Consent

- It is proposed to prescribe registered non-government schools as public authorities for the purposes of the Draft SEPP. The Draft NSW Code of Practice for Part 5 Activities (for Registered Non-Government Schools) is critical in ensuring accountability of private schools and that due process is followed for developments without consent. The Code should include mandatory provisions to require that the review of environmental factors, species impact assessment and environmental impact assessment are undertaken by appropriately qualified professionals relevant to the matter.
- The Department should also clarify the types of enforcement actions which would be undertaken should a breach against the Code of Practice occur.

4.3 Complying Development

The existing complying development provisions for schools in the SEPP (Infrastructure) will be modified and transferred to the new instrument.

- The amended provisions are not supported as it would allow developments of a significant scale to be carried out as complying development with limited scope for merit assessment. Specifically, new buildings or alterations and additions of up to 4 storeys / 22m in height (similar in height to a 6-storey residential flat building) would qualify as complying development, subject to a restrained set of controls.
- There are concerns about the suitability of larger scale complying development as envisaged in the Draft SEPP on existing school sites, which are adjacent to industrial areas. The generic setback controls in Schedule 2 are not considered to be adequate

for sites adjoining industrial zones. It is recommended that complying development for new permanent library, classroom, cafeteria or administration buildings should not be allowed on sites adjoining industrial zones.

- The development standards in Schedule 2 and the design quality principles in Schedule 4 are overly general and do not provide specific guidance on issues, such as site planning, built form modeling, façade articulation and landscape design. The draft provisions are not considered to be able to ensure appropriate design and amenity outcomes (refer to the following paragraphs for further comments on this matter).
- It is recommended that complying development should only apply to low-rise buildings of up to two storeys in height; or at the very least, the height control in the existing SEPP (Infrastructure) of 12m should not be increased further.
- Council supports in principle the proposed option for complying development certificates for school infrastructure to be issued by council certifiers only. However, resourcing for councils to efficiently process these applications should be considered.

4.4 Development Permitted with Consent

- Clause 29(3)(b) of the Draft SEPP allows expansion of an existing school to the adjacent land subject to development consent, even when the adjacent land is outside of a prescribed zone. The Botany Bay LEP 2013 currently prohibits educational establishments within IN1 General Industrial and IN2 Light Industrial zones. The Rockdale LEP 2011 also prohibits educational establishments within the IN2 zone. It should be noted that there are existing schools located in close proximity to industrial lands in Bayside, including Banksmeadow Primary School on Stephen Road and Matraville Primary School at the corner of Bunnerong Road and Beauchamp Road.
- Council does not support the amendment to permit school facilities in any adjacent industrial areas due to health considerations and the potential impact on the viability of employment lands, particularly near Sydney Airport and Port Botany. Additionally, the draft provision does not specify whether a property separated by a public road constitutes adjacent land as such.
- It is proposed to classify development in existing schools with a project value of less than \$20 million, which are not complying development, as regional development with the relevant planning panel as the consent authority. The proposal should clarify the minimum threshold for regional development (in terms of capital investment value) so as to differentiate it from local development.

4.5 Design Quality of Schools

Clause 29(5) of the Draft SEPP requires the consent authority to take into consideration the design quality principles in Schedule 4 prior to the determination of a development application.

The draft amendment to the EP&A Regulation includes a new requirement for a written statement by a qualified designer verifying achievement of the aforementioned design quality principles, prior to the issue of any complying development certificate for a new building or alterations and additions to a building with a height of more than 12m.

- The design quality principles in Schedule 4 are general would require elaboration in order to provide an appropriate basis for assessing the design merits of school developments. Some particular issues include:
 - Principle 1 – *context, built form and landscape* should discuss the retention of significant vegetation and water-sensitive urban design.
 - Principle 2 - *sustainable, efficient and durable* and Principle 6 - *whole of life, flexible and adaptive* overlap each other, particularly in regards to adaptability.
 - In Principle 2, there is insufficient guidance in relation to social and economic outcomes and what they encompass.
- The Draft SEPP does not make reference to the design guide for schools (“Better Schools”). The design guide does not appear to carry any statutory weight. Regardless, the design guide lacks specific performance criteria and practical guidance, and there are no diagrams or drawings to illustrate best practice designs.
- For complying development for a building of more than 12m in height, the suitability of relying on a written statement by a qualified designer as a means of proof of achieving the design principles is considered unreasonable, as such a statement is likely to be subjective.
- It is unclear as to whether a written statement by a qualified designer is required for a development application for a building of more than 12m in height.
- It does not appear that the draft amendments to the EP&A Regulation or the draft SEPP has defined the term “qualified designer”.
- Council supports the option of requiring a qualified architect to be the designer of any school developments that are State Significant Development (page 22 of Explanation of Intended Effect). It is recommended that this requirement be extended to any school buildings with a height of 3 storeys or more to ensure good architectural outcomes for more significant developments.

5.0 UNIVERSITIES

The Explanation of Intended Effect document acknowledges the changing mode of delivery of tertiary education, and the trend of providing services in off-campus office buildings and business parks.

Council has received a development application for change of use of one of the buildings within a business park in Botany to a university teaching and research centre. The application is currently under consideration by the Sydney Central Planning Panel.

The provisions in the Draft SEPP allow a range of exempt, complying and developments permitted without consent in connection with an existing university, which may not be suitable for off-campus locations. In particular, new buildings in existing business parks must carefully consider the balance between landscape, car parking and building footprints. The main issues are outlined below:

- Clause 43 and Schedule 3 allow buildings of up to 3 storeys / 15m to be complying development. The provisions stipulate minimum side and rear setbacks of 1m for new buildings if the site does not adjoin a residential zone. There are no mandatory landscaping requirements for sites within business zones. The nature and scale of developments as envisaged could have significant impacts on the site and surrounding areas and should require development consent.
- Clause 40 provides for a range of single-storey buildings, including library, classroom and administration office, as development without consent. Such developments may not be suitable in a business park setting and should undergo formal assessment by the council. Alternatively, these types of development without consent should only occur within existing university campuses that are zoned SP1 Special Activities or SP2 Infrastructure, and should not apply to other zones.
- As previously discussed, Council objects to the clearance of native vegetation of up to 2 hectares for the purposes of recreation facilities as exempt development.

6.0 TAFE NSW INSTITUTES

The St. George College (TAFE) in Kogarah is located within the R2 Low Density Residential zone. Clause 50 of the Draft SEPP stipulates a range of buildings of up to 12m in height within an existing TAFE establishment as complying development. The height limit applicable to the St. George College area under the Rockdale LEP 2011 is 8.5m.

The height limit under the Draft SEPP is not consistent with the lower density residential character envisaged in the Rockdale LEP. Additionally, there are minimal design controls relating to built form, façade articulation and materiality. Council does not support the complying development provisions in their current form. It is recommended that complying developments should be restricted to lower scale buildings.

As previously discussed, Council objects to the clearance of native vegetation of up to 2 hectares for the purposes of recreation facilities as exempt development.

APPENDIX 1 MAP



Map showing existing schools adjacent to the Botany Industrial Park and Denison Street dangerous goods route.