

Attachment 3

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

The subject Development Application falls under Part 3 of the SEPP, entitled *Early education and care facilities—specific development controls*. An assessment against the relevant clauses of the SEPP is provided in the table below:

Part 3 Early education and care facilities—specific development controls

Standard	Required/Permitted	Provided	Compliance
Notes	<p>Note 1. A service approval is required to operate an early education and care facility that is an education and care service to which the Children (Education and Care Services) National Law (NSW) applies or a State regulated education and care service to which the Children (Education and Care Services) Supplementary Provisions Act 2011 applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service.</p> <p>Note 2. Complying development controls specifically for school-based child care are provided for in clause 40.</p>	A service approval from the NSW Dept. of Education (DEC) is required to be obtained by the operator. To be conditioned.	To condition should consent be granted
22 Centre-based child care facility— concurrence of Regulatory Authority required for certain development	<p>(1) This clause applies to development for the purpose of a centre-based child care facility if:</p> <p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</p> <p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p> <p>(2) The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.</p>	<p>The proposed development complies with Clause 107 of the National Regulations.</p> <p>The proposed development does not comply with Clause 108 of the National Regulations.</p> <p>Noted</p>	<p>Yes</p> <p>No – Concurrence has not been sought for non-compliance.</p> <p>Application is recommended for refusal.</p>
23 Centre-based child care facility— matters for consideration by consent authorities	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	Refer to assessment contained at Attachment 5.	Refer to Attachment 5.

<p>25 Centre-based child care facility—non-discretionary development standards</p>	<p>(1) The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.</p> <p>(2) The following are non-discretionary development standards for the purposes of section 79C (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility:</p> <p>(a) location—the development may be located at any distance from an existing or proposed early education and care facility,</p> <p>(b) indoor or outdoor space</p> <p>(i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or</p> <p>(ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,</p> <p>(c) site area and site dimensions—the development may be located on a site of any size and have any length of street frontage or any allotment depth,</p> <p>(d) colour of building materials or shade structures—the development may be of any colour</p>	<p>Noted</p> <p>The proposed development complies with Clause 107 of the National Regulations.</p> <p>The proposed development does not comply with Clause 108 of the National Regulations.</p> <p>The proposed development complies with Clause 28(2) of the Supplementary Provisions Regulation relating to indoor space</p> <p>The proposed development does not comply with Clause 28(4) of the Supplementary Provisions Regulation relating to outdoor space.</p> <p>Noted</p> <p>Noted</p>	<p>Noted</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p> <p>Noted</p> <p>Noted</p>
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	<p>or colour scheme unless it is a State or local heritage item or in a heritage conservation area.</p> <p>(3) To remove doubt, this clause does not prevent a consent authority from:</p> <p>(a) refusing a development application in relation to a matter not specified in subclause (2), or</p> <p>(b) granting development consent even though any standard specified in subclause (2) is not complied with.</p>	Noted	Noted
26 Centre-based child care facility—development control plans	<p>(1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the <i>Child Care Planning Guideline</i>, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p> <p>(2) This clause applies regardless of when the development control plan was made.</p>	Noted	Noted

Consideration of the relevant requirements of the Child Care Planning Guideline is provided at Attachment 5 to this report.