



New South Wales

# **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) Amendment 2017**

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP  
Minister for Planning

## **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) Amendment 2017**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) Amendment 2017*.

### **2 Commencement**

This Policy commences on the day on which it is published on the NSW legislation website.

### **3 Repeal of Policy**

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

## **Schedule 1      Amendment of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

**[1]    Clause 26 Centre-based child care facility—development control plans**

Omit “childhood” from clause 26 (1) (c).

**[2]    Clause 28 Temporary emergency relocation of early education and child care facility—exempt development**

Insert “temporarily” after “to be” in clause 28 (1) (b) (i).

**[3]    Clause 28 (2)**

Omit clause 28 (2) and (3). Insert instead:

(2)    The standards for the development are as follows:

- (a)    the development must be carried out within, and the period of the temporary use must not exceed, 12 months, starting from the date on which a service approval to operate the relocated early education and care facility is granted,
- (b)    the development must not be on any of the following land:
  - (i)    land within a flood control lot,
  - (ii)   land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2,
  - (iii)  land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*,
  - (iv)  land that is identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by a coastline hazard, a coastal hazard or a coastal erosion hazard,
  - (v)    bush fire prone land,
- (c)    the premises on which the development is carried out:
  - (i)    must provide or have convenient access to adequate sanitary facilities for use by staff and children attending the service, and
  - (ii)  must not be located within 200 metres (measured from the closest boundary of the lot on which the development is proposed) from any restricted premises, sex services premises, pub or registered club.

**[4]    Clauses 31 (2) (e) (vi) and 32 (2) (e) (vi)**

Omit “pubs or registered clubs” wherever occurring. Insert instead “pub or registered club”.

**[5]    Clause 36 Schools—development permitted without consent**

Insert after clause 36 (1) (d):

- (e)    demolition of structures or buildings (unless a State heritage item or local heritage item).

**[6]    Clause 38 Existing schools—exempt development**

Omit “portable” from clause 38 (1) (l). Insert instead “short-term portable”.

**[7] Clause 38 (1) (I) (ii)**

Insert at the end of the subparagraph:

and

(iii) that is removed within 24 months of being installed,

**[8] Clauses 46 (1) (a) (iii) and 53 (1) (a) (vi)**

Insert “, that is not more than 1 storey high” after “glass house” wherever occurring.

**[9] Clauses 46 (1) (a) (iv) and (v) and 53 (1) (a) (vii) and (viii)**

Insert “that is not more than 1 storey high” after “facility” wherever occurring.

**[10] Schedule 5 Savings and transitional provisions**

Insert after clause 1 (2):

(2A) This Policy does not apply to or in respect of the determination of an application for a complying development certificate made under Part 4 of the Act before 1 September 2017 but not finally determined before the commencement of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) Amendment 2017*.

**[11] Schedule 5, clause 1 (3A) and (3B)**

Insert after clause 1 (3):

(3A) Subject to subclause (2), an application to which subclause (1), (2A) or (3) applies is to be determined as if this Policy had not been made.

(3B) A reference in this clause to this Policy includes a reference to the amendments made by Schedule 6.

## **Schedule 2 Amendment of other environmental planning instruments**

### **2.1 Ballina Local Environmental Plan 2012**

#### **Land Use Table, Note 2**

Omit “Child care centres;”.

Insert in alphabetical order “Centre-based child care facilities;”.

### **2.2 Gloucester Local Environmental Plan 2010**

#### **Land Use Table, Zone R2 Low Density Residential**

Omit “Child care centres;” from item 3.

### **2.3 Kempsey Local Environmental Plan 2013**

#### **Schedule 2 Exempt development**

Omit “child care centre” from subclause (3) of the matter relating to bee keeping.

Insert instead “centre-based child care facility”.

### **2.4 North Sydney Local Environmental Plan 2013**

#### **Schedule 1 Additional permitted uses**

Omit “child care centre” from clause 24 (2).

Insert instead “centre-based child care facility”.

### **2.5 Moree Plains Local Environmental Plan 2011**

#### **Schedule 2 Exempt development**

Omit “**child care centres**” and “child care centre” from the matter relating to community use of educational establishments and child care centres.

Insert instead “**centre-based child care facilities**” and “centre-based child care facility”, respectively.

### **2.6 Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011**

#### **[1] Land use table**

Omit “Child care centres;” from item 3 of the matter relating to Zone R1 General Residential.

Insert instead “Centre-based child care facilities;”.

#### **[2] Dictionary**

Omit the definitions of *child care centre* and *home-based child care*.

Insert in alphabetical order:

*centre-based child care facility* means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

**Note.** An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

**home-based child care** means:

- (a) a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*), or

**Note.** A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the *Children (Education and Care Services) National Law (NSW)*.

- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*),

at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.

## 2.7 Sydney Local Environmental Plan (Green Square Town Centre) 2013

### [1] Land use table

Omit “Child care centres;” from item 3 of the matter relating to Zone B4 Mixed Use.

Insert instead “Centre-based child care facilities;”.

### [2] Dictionary

Omit the definitions of *child care centre* and *home-based child care*.

Insert in alphabetical order:

**centre-based child care facility** means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or

- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

**Note.** An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

**home-based child care** means:

- (a) a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*), or

**Note.** A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the *Children (Education and Care Services) National Law (NSW)*.

- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*),

at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.

## 2.8 Sydney Local Environmental Plan (Green Square Town Centre— Stage 2) 2013

### [1] Land use table

Omit “Child care centres;” from item 3 of the matter relating to Zone B4 Mixed Use.

Insert instead “Centre-based child care facilities;”.

**[2] Dictionary**

Omit the definitions of *child care centre* and *home-based child care*.

Insert in alphabetical order:

***centre-based child care facility*** means:

- (a) a building or place used for the education and care of children that provides any one or more of the following:
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

**Note.** An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*) is provided.

but does not include:

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the *Children (Education and Care Services) National Law (NSW)*), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

***home-based child care*** means:

- (a) a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*), or

**Note.** A family day care residence is a residence at which a family day care educator educates and cares for children as part of a family day care service—see the *Children (Education and Care Services) National Law (NSW)*.

- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*),

at which the education and care service is provided at any one time to no more than 7 children (including any child of the person providing the service) all of whom are under the age of 13 years and no more than 4 of whom are children who do not ordinarily attend school.