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ISEPP Submission

ISEPP REVIEW

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) establishes the planning assessment pathways and planning requirements for 26 different types of infrastructure. Prior to ISEPP, the planning framework for infrastructure projects was disjointed and regulated through various local, regional and State planning instruments. ISEPP brings these instruments together under one umbrella, one planning instrument.

The Department of Planning and Environment is undertaking a review of the ISEPP with a particular focus on the provisions relating to social infrastructure. The NSW Government has recognised that this review is particularly necessary to facilitate the delivery of core government services including education for which the Department of Education has a \$2 billion capital work program, \$554 million for 2016-17.

PRELIMINARY SUBMISSION

EPM and McCullough Robertson have collaborated in a preliminary submission to the Department about the current version of the ISEPP, as follows:

1. Division 3 – this Division (which applies to Educational Establishments) includes numerous

references to an ‘existing educational establishment’, including in the context of the permissibility provisions (clause 28) and the complying development provision (clause 31A). This term is not defined so it is unclear as to whether an approved (but not yet built) school would be classified as an ‘existing educational establishment’ for the purpose of the Division. In our view an ‘existing educational establishment’ should include schools that are approved (but may not yet be fully constructed), including schools that are the subject of existing use rights.

2. Clause 28(2)(b) – the term ‘adjacent to an existing educational establishment’ should be defined so as to include land that is separated from an existing educational establishment by a road.
3. The Schools Facilities Standards are out-dated and often do not reflect modern requirements. These standards should be updated and made available on the Department of Planning website.
4. Clause 31A should be clarified to make it clear that the provision also includes demolition of the categories of development listed in clause 31A(1). It should be made clear in the Interpretation provisions

of the ISEPP that any development able to be carried out as exempt or complying development in the ISEPP is unaffected by Division 2 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5. Cl. 31A(1)(a) should include boarding facilities – it’s a necessary and increasingly important part of operating a school in a global economy.
6. In recognition of the need for additional child care facilities and pre-schools, clause 31A(1)(a)(iv) should be extended to all child care facilities, including early learning centres and pre-schools, rather than being limited to child care facilities to provide only for students or staff (or both)
7. The development standards contained in clause 31A(4) should apply only to the development being carried out under clause 31A(1) – i.e. if an existing building is 15m in height, alterations and additions to that building should be able to be carried out as complying development under clause 31A(1) not with standing that the existing building is over 12m in height.

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ISEPP Submission - Continued

Further the term “building” as used in this clause should be better defined to exclude structures such as landscaping, roads and open-air carparks.

8. Development Consent through a Complying Development Certificate should not be constrained by a condition in a previous Development Consent any more than a Development Consent through a Development Application. Why is it that a Consent through a DA can overcome a condition in an earlier Consent limiting student numbers, but a Consent through a CDC cant? If “development”

includes the “use of land” (as it is defined by the EP&A Act to include) then a CDC should not necessarily be constrained by a condition in a previous Consent.

9. New provisions should be added that provide for student accommodation, including permissibility provisions similar to those applying to educational establishments. This is suggested given the increasing demand for student accommodation in NSW and the often complex zoning controls that exist in relation to such a use where such a use is categorised as a ‘boarding house’

NEXT STEPS

The Department is currently undertaking targeted consultation with Government agencies, local councils and key industry groups, following which it will finalise its drafting instructions and recommendations for the Minister to consider. Public consultation on the amended ISEPP is expected to occur in late 2016, possibly late September or October, at which time there will be an opportunity for further comment on the provisions. This would be the ideal opportunity for our mutual school clients to also make submissions, prior to the amended ISEPP being finalised.



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