INNER WEST COUNCIL

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

Dear Sir/Madam

RE: Draft Submission on the Draft SEPP (Infrastructure) Amendment (Review) 2016

Thank you for the opportunity to comment on the proposed changes to *State Environmental Planning Policy (Infrastructure) 2007*.

Council's Strategic Planning team reviewed all material available during the public exhibition. The comments and recommended rewording of some of the amendments are provided in the Table attached to this letter.

Should you wish to further discuss this submission please contact Peter Wotton, Strategic Planning Projects Coordinator on 9335 2011 or email Peter.Wotton@innerwest.nsw.gov.au

Yours sincerely

Simon Manoski
GROUP MANAGER – STRATEGIC PLANNING

Submission on State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016
Inner West Council

	Wording	Comment
	SCHEDULE 1 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – consultation and notification	
[3]	*(a) is likely to affect the heritage significance of a local heritage item, or of a heritage conservation area, that is not also a State heritage item in a way that is more than minor or inconsequential, and*	The consultation provisions should also apply to draft heritage items and to premises that are subject to an interim heritage order under the Heritage Act 1977. Suggested rewording: *(a) is likely to affect the heritage significance of a local heritage item, a draft heritage item, premises that are subject to an interim heritage order under the Heritage Act 1977, or of a heritage conservation area, that is not also a State heritage item in a way that is more than minor or inconsequential, and*
[5]		The amendment should include an amendment to omit the heading and insert the new heading (as per the heading to [5]).
	SCHEDULE 2 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – exempt and complying development generally	
[2] Clause 20(2)(e1)	*(e1) must not involve the demolition of a building or work that is part of, a State or local heritage item, and*	The clause should be amended to also exclude the demolition of buildings or works that are part of draft heritage items, and buildings or works which are subject to an interim heritage order under the Heritage Act. It is noted that under Clause 1.17A Requirements for complying development for all environmental planning instruments under State Environmental Planning Policy (Exempt and Complying Development Codes) Policy 2008 (the Codes SEPP) that complying development must not be carried out on land that "*is subject to an interim heritage order under that Act or on which is located an item that is so subject*" (Clause 1.17A (d) (ii)). It is also noted that under Clause 1.18 General requirements for complying development for this Policy under the Codes SEPP, the development must "*not be carried out on land that comprises, or on which there is, a draft heritage item*" (Clause 1.18 (c3)). It is considered that the same requirements should apply to development permitted to be carried out as exempt development under the Infrastructure SEPP (and other SEPPs), particularly as "*demolition*" is listed as a type of development permitted to be carried out as "*exempt development*" for certain types of infrastructure facilities. Suggested rewording:

		(e1) must not involve the demolition of a building or work that is part of, a State or local heritage item or draft heritage item, or that is subject to an interim heritage order under the Heritage Act 1977, and
[5] Heading	*Clause 20B General requirements for exempt development*	Clause 20B relates to complying development. The heading should read: *Clause 20B General requirements for complying development*
[7] Clause (8)	*Clause 20C General Conditions of complying development certificates*	Note: Other environmental planning instruments (such as Condition 5 of Schedule 9 Conditions applying to complying development certificates under the Demolition Code) use the words "*Run-off and erosion controls*". The terminology "*Erosion and sediment controls*" should be used universally in all environmental planning instruments.
[8] Clause (8C)	*(8C) Dirt, sand and other materials relating to the construction or other work comprised in the development and loaded on to any vehicles entering or leaving the site must be covered.*	It is suggested that the paragraph be reworded to read: *All vehicles associated with the demolition, construction and associated work necessary for the carrying out of the development, carrying dirt, sand or other materials to or from the site must have their loads covered at all times when entering or leaving the site.*
[8] Clause (8D)	*(8D) All vehicles, before leaving the site, must be cleaned of dirt, sand or other materials that have adhered during that construction or other work and could be tracked onto public roads.*	The paragraph should be written in a more performance based way. Suggested rewording: *All vehicles associated with the demolition, construction and associated work necessary for the carrying out of the development must be cleaned, before leaving the site, to prevent the emission of dust and prevent mud, dirt or other materials from being deposited on public roads.*
[12]	***Clause 72 Complying development conditions—additional conditions*** *(Consequent on amendment to clause 20B.)* *Omit clause 72 (h).*	The amendment to clause 20B relates to the removal of asbestos. Clause 72 (h) reads as follows: *"(h) if lead dust, asbestos or other contaminants are present on the site, appropriate measures to minimise associated hazards must be implemented,"* As detailed above the subject clause relates to matters other than just asbestos. It is considered that as a consequent on the amendment to clause 20B that only the words *", asbestos"* be omitted from clause 72 (h).
[15]	*"Height must not exceed 3.5m above ground level (existing) and external wall height must not exceed 3m above ground level (existing)"*	The height should not exceed 3m and the wording should be amended to be consistent with the proposed change to clause 97 (c1) (ii) (**[14]** of Schedule 16). It is also noted that the wording of the height control in proposed clause 97 (c1) (ii) is consistent with the height control in Part 2 Division 1 General Exempt Development Code for carports under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
[17]	*"Building or structure must not be a heritage item or within a heritage conservation area."*	As per the comments in relation to Amendment **[2]** provision should be amended to read: *Building or structure must not be a heritage item, draft heritage item, subject to an interim heritage order under the Heritage Act 1977, or within a heritage conservation area*
[18]	***Schedule 1 (matter relating to demolition of buildings or structures)*** *Omit "100m2" from the second column.* *Insert instead "250m2".*	The existing provision reads as follows: *"Must be carried out in accordance with AS 2601—2001, Demolition of structures and must not cover an area of more than 100m2."* As raised in comments relating to demolition provisions in other parts of this submission demolition requirements should be based on the floor area of the building not the footprint

		of the building proposed to be demolished. It is also considered that the exempt threshold should not be increased to 250m2, especially considered that the demolition provisions relating to some infrastructure facilities under the SEPP specify lower thresholds for demolition as complying development (e.g. proposed clause 97A (d) (i).)
	SCHEDULE 3 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – air transport facilities	
Clause 21	**Definitions** *"airport"*	The definition of "*airport*" is not strictly in accordance with the definition of "*airport*" under the Standard Instrument. For consistency it is suggested that the wording be amended to read: "***airport*** has the same meaning as in the Standard Instrument". Whilst the definition of "*air transport facility*" is in accordance with the definition of that term under the Standard Instrument for consistency it is also suggested that the wording of the definition of "air transport facility" be amended to read: "***air transport facility*** has the same meaning as in the Standard Instrument". Notwithstanding the above comments, it is questioned the need to include definitions in the various Divisions of Part 3 Development controls of the Infrastructure SEPP where that term is defined under the Standard Instrument, noting that under Clause 5 (1) of the SEPP *"A word or expression used in this Policy has the same meaning as it has in the Standard Instrument unless it is otherwise defined in this Policy."*
Clause 23	*(a) passenger terminals*	"*Passenger terminals*" is not a term specifically defined in either the Infrastructure SEPP or the Standard Instrument. Former environmental planning instruments such as Marrickville Local Environmental Plan 2011 included a definition of "*airline terminal*" which was defined as follows: "***airline terminal*** *means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an airport or an aeroplane*". The Standard Instrument includes separate definitions of "*air transport facility*" and "*passenger transport facility*". Under the Standard Instrument a "*passenger transport facility'* is defined as follows: "***passenger transport facility*** *means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses that building or place".* A passenger terminal would constitute a "*passenger transport facility*". In view of the above it is recommended that subclause (a) be amended to read "*passenger transport facility*".

Clause 23	*(d) premises for retail, business, recreational, residential or industrial uses.* *(e) tourist and visitor accommodation*	The wording of development types currently referred to in subclause (d) are very general and not in accordance with (or aligned with) terminology used in the Standard Instrument. It also considered that recreational uses should be limited to "*recreational facilities (indoor)*" and "*recreational facilities (outdoor)",* similar to the proposed changes to "*correctional centres and correctional complexes*" (proposed Clause 25 (3) (h)). It is also considered that the additional development type proposed in subclause e) should be incorporated into subclause (d) with the development types being placed in alphabetical order. It is recommended that the subclause be amended to read: (d) business premises, industries, recreational facilities (indoor), recreational facilities (outdoor), residential accommodation, retail premises, or tourist and visitor accommodation.
	SCHEDULE 4 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – correctional centres and correctional complexes	
Clause 25(3)	*(e) group homes (as defined by clause 59)* *(f) health services facilities (as defined by clause 56)*	Clause 59 has been repealed. The words *"(as defined in clause 59)"* should be deleted. The bracketed section after "*health services facilities*" should also be deleted.
[3] Clause 26	*Omit "land within a prescribed zone". Insert instead "any land"*	Concerns are raised with this proposed amendment in that it would potentially permit the expansion of existing correctional centres **without consent** (for the development types specified in the clause) onto any land regardless of the zoning of that land including land that may not currently comprise land on which the existing correctional centre is located. If the clause is to be amended, it is considered that any change to the clause should be specific and only apply to the land within the boundaries of the existing correctional centre or correctional complex, similar to the provision contained in Clauses 26A and 26B. Such a requirement would also be consistent with the approach used in Clause 58 in relation to "*health services facilities*".
Clause 26A	*Development for any of the following purposes is exempt development if it complies with clause 20 and is carried out by or on behalf of a public authority within the boundaries of an existing correctional centre:*	Division 2 of Part 3 of the Infrastructure SEPP relates to "*correctional centres*" and "*correctional complexes*". The provisions in Clause 26A Exempt development only apply to "*correctional centres*". It is not known whether that is intentional. The Department may wish to examine whether to add the words "*or existing correctional complex*" to Clause 26A as part of the review.
	SCHEDULE 7 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – emergency and police services facilities and bush fire hazard reduction	

[1]	***Heading*** *"Emergency and police services facilities and bush fire hazard reduction"*	The heading should be amended to reflect defined terms. In this regard it is recommended that the heading for Division 6 be amended to read as follows: *"Emergency services facilities, police services facilities and bush fire hazard reduction"*
[3] ***Clause 46***	***Definitions*** *"emergency services facility"*	The proposed amendment seeks to omit "*of emergency services*" from the definition and insert the words "*of services*". Whilst no objection is raised in principle to the proposed change, if adopted, the definition of "*emergency services facility*" in the Standard Instrument should also be amended accordingly to ensure consistency.
[5]	***Definitions*** *"police services facility"*	The proposed definition specifically for the police is essentially based on the new definition of "*emergency services facility*" with the exception of the inclusion of the additional words "*including police training facilities*". The current definition of "*emergency services facilities*" under the Standard Instrument means a "*building…..used in connection with the provision of emergency services…..*" It is open to interpretation as to whether "*training facilities*" is an activity "*used in connection with the provision of emergency services*". The proposed change to the definition of "*emergency services facility*" in the Infrastructure SEPP and the new definition removes that doubt, in relation to emergency services facilities used by the NSW Police Force. However the issue would remain for the other emergency services organisations listed in the definition of that term under the Standard Instrument. To address the issue it is suggested that the existing definition of "*emergency services facility*" under the Standard Instrument be amended to read as follows: "***emergency services facility*** *means a building or place (including a helipad) used in connection with the provisions of services by an emergency services organisation, including training facilities*". However notwithstanding the above, if the definition is amended to include "*training facilities*" it is considered that amendments should be made to other clauses in Division 6 of the Infrastructure SEPP as detailed below.
[6] and [7] ***Clauses 47(2)and 47(3)***		The proposed amendment to Clause 47 (2) to omit "*or the NSW Rural Fire Service*" from the clause and the insertion of the words *", the NSW Rural Fire Service or the NSW Police Force*" in their place negates the need for the inclusion of proposed Clause 47 (3). Either the proposed amendment to Clause 47 (2) should be deleted with proposed Clause 47 (3) retained, or alternatively proposed Clause 47 (3) should be deleted.
[8] ***Clauses 48 (1), (2) (b) and (c)***	*Omit "an emergency" wherever occurring in clause 48 (1) and (2) (b) and (c).* *Insert instead "a police or emergency".*	For similar reasons it is suggested that rather than amending the above subclauses as proposed, that the subject clauses be amended by inserting the words "*or police services facilities*" after the words "*emergency services facilities*".
[9] ***Clause 48(2)(a)***	*(a) alterations of or additions to an existing police or emergency services facility (other than a police station)*	The existing control under the SEPP, (clause 48 (2) (a)) only specifies "*minor alterations of or additions to an existing emergency services facility, such as internal fitouts or works for safety or security purposes"* as development permitted without consent on any land.

		The proposed amendment does not limit proposed additions to emergency services facilities to only "*minor*" additions. Unlike changes proposed in the amendments relating to other forms of infrastructure facilities, the permitted without consent amendments proposed for emergency services facilities do not include other restrictions such as minimum setbacks from property boundaries or maximum height of buildings. The proposed amendments do not impose any restrictions on alterations or additions to emergency services facilities (other than to existing police stations) from being carried out without consent on any land. The proposed amendments include provisions for alterations and additions to an existing police station (in Clause 48 (2AA). The inclusion of those provisions is considered essential. That approach should be adopted for other forms of infrastructure facilities permitted without consent under the SEPP, with similar provisions being included for infrastructure facilities such as hospitals. Notwithstanding the above, if additions, other than minor additions, are to be permitted to be carried out without consent to emergency services facilities on any land, minimum setbacks from property boundaries and maximum height of buildings need to apply to such development (with different minimum setbacks and maximum height requirements dependent on context – refer to comments in relation to amendment **[9]** in Schedule 9 – Health services facilities). The following comments are provided in relation to wording of paragraph (a): For similar reasons to those raised in relation to **[8]** it is suggested that the subclause be amended to read as follows: *(a) alterations of or additions to an existing emergency services facility or a police services facilities (other than a police station).* It is noted that proposed Clause 48 (2AA) includes specific provisions (in proposed subclauses (a) and (b)) relating to development without consent provisions for police stations. The new definition of "*police services facility*" includes "*police training facilities*". It is considered that those specific provisions should also apply to "*police training facilities*". Consequently it is recommended that the clause be amended to read; *(a) alterations of or additions to an existing emergency services facility or a police services facilities (other than a police station or police training facilities).*

Clause 48 (2) (c)	*c) demolition of an emergency services facility*	Unlike the demolition provisions that relate to other forms of development under the SEPP the current provision does not include any specifications/restrictions on such matters as the size of the building that can be demolished. Similar to the comments made in relation to proposed amendment **[9]** in Schedule 9 relating to health services facilities, it is considered that there should be an upper limit on the size of emergency services facility and police service facility buildings that can demolished as development without consent.
[10] Clause 48(2AA)		Following the comments in relation to **[9]** the words "*or police training facility*" should be added to Clause 48 (2AA) after the words "*existing police station*"
	(b) allow for the number of staff employed at the police station, as compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development, to increase by more than 10 percent.	With the new definition of "*police services facility*" including police training facilities and persons attending the training facility not necessarily being "*staff employed at the police station*" it is considered that proposed paragraph it is considered that the proposed paragraph should be amended to read: *allow for the number of staff employed at the police station or the number of persons attending any training facility at the police station, as compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development, to increase by more than 10 percent.*
		As discussed previously, additional provisions should be included specifying minimum setbacks and maximum height requirements for this form of development to be carried out without consent.
[14] Clause 75A	*75A Clauses 76 and 77 not applicable to police services facilities*	It is not known the reason for the inclusion of this clause. Clauses 76 and 77 contain provisions relating to development for the purposes of "public administration buildings". The terms "*public administration building*" and "*police services facility*" are separately defined. By virtue of Clause 2.3 (3) (b) of the Standard Instrument a development can't be both a "*public administration building*" and a "*police services facility*".
	SCHEDULE 9 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – health services facilities	
[2] Clause 56	"**prescribed zone**" *(d1) R2 Low Density Residential,*	The inclusion of R2 Low Density Residential zone as a prescribed zone is considered totally inappropriate for some of the types of development that fall under the broad definition of "*health services facilities*". In particularly: *"(a) a medical centre,* *(d) patient transport facilities, including **helipads** and ambulance facilities,* *(e) hospital."*

		Those types of "*health services facilities*" are considered incompatible uses in low density residential areas and the built form and scale of such developments are generally out of character with the built form of low density residential areas. Whilst *"health consulting rooms"* are considered appropriate as a use permissible with consent in the R2 Low Density Residential zone the other forms of "*health services facilities*" are clearly inappropriate uses within that zone. Consequently it is contended that the R2 Low Density Residential zone should not be included as a prescribed zone for "*health services facilities*".
[3]	"**prescribed zone**" *(g1) B1 Neighbourhood Centre,*	For similar reasons to those referred to in the comments above, it is considered inappropriate to include the B1 Neighbourhood Centre as a prescribed zone for "*health services facilities*". Land zoned B1 Neighbourhood Centre is usually located adjacent to land zoned R2 Low Density Residential, and is generally surrounded by low scale residential development. One of the objectives of the B1 Neighbourhood Centre zone under the Standard Instrument is "*To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood."* It is considered that "*health services facilities*", apart from *"health consulting rooms"* are contrary to that objective. Consequently it is contended that the B1 Neighbourhood Centre zone should not be included as a prescribed zone for "*health services facilities*".
[4] **Clause 57(2)(c)**	*(c) a building or place used for the training or education of health and other professionals*	The terminology used in the paragraph is restrictive in that it relates only to the training or education of health and other professionals. Not all people employed within a building within the boundaries of an existing "*health services facility*" may be a "health or other professional". For example some people may be training to become a "health care professional" other people may be employed in administrative roles or servicing roles. The paragraph should be amended to include such persons. It is suggested that the paragraph be amended to read: *(c) a building or place used for the training or education of employees and health and other professionals*
[5] **Clause 58**		<u>General comments</u> Clause 58 is problematic because of the different types and characteristics of developments that are a type of "*health services facility*" under the definition of that term under the Standard Instrument. If all types of "*health services facilities*" are to be made a

		form of development permitted without consent under the SEPP it is suggested that the SEPP include separate provisions for each development type.
[5] Clause 58 (1)	*(a) the alteration of, or addition to, a building that is a health services facility,*	The existing control under the SEPP, (clause 58 (1) (a)) only specifies "*minor alterations of, or additions to an existing hospital, including internal fitouts or provision of access for persons with a disability*" as development permitted without consent. The existing control also only applies in prescribed zones. It should also be noted that under the existing provisions there is a requirement (under clause 58 (2) that such development is only permitted without consent "*if the development will not allow for an increase in:* *(a) the number of patients accommodated at the facility, or* *(b) the number of staff employed at the facility,* *that is greater than 10 per cent (compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development)."* Under the proposed amendment the type of development permitted without consent is not limited to only "*hospitals*", not limited to only minor alterations or additions and is not limited to development only on land in the currently prescribed zones. The proposed amendment to the development without consent provisions for health services facilities also do not include any limitations on increases in the number of staff employed at the health services facility or increases in the number of patients accommodated at the health services facility. The only restriction under the proposed amendment is a requirement that the additions to the existing health services facility building is no more than 12m in height and located no closer than 5m from the property boundary (paragraph (f)). (Refer to comments concerning that paragraph).
[5] Clause 58 (1)	*(c) demolition of buildings carried out for the purposes of a health services facility*	To allow the demolition of such buildings (with no requirements) without consent is considered inappropriate. Demolition permitted without consent would not be subject to provisions such as those relating to demolition in the general requirements for exempt development (proposed Clause 20 (2) (e1), (e2) and (g). If demolition of buildings carried out for the purpose of a "*health services facility*" is to be permitted to be carried out without consent, as a bare minimum, the requirements in proposed Clause 20 (2) (e1), (e2) and (g) should apply to that development. It is also considered that demolition of a health services facility building in a heritage conservation area should be excluded from being able to be carried out without consent (similar to the approach adopted in relation to complying development (Clause 58C (4)).

		Also, unlike proposed Clause 58C (3), there is no restriction on the size of the health services facility building that could be demolished without consent. An upper limit on the size of a health services facility building that could demolished as development without consent should also be specified. Buildings within the boundaries of an existing health services facility may include buildings not used for the purposes of a health services facility. It is considered that wording of the paragraph should be changed to read "*demolition of buildings or structures*" (like the proposed wording in Clause 30 (1) (e) for Schools – development permitted without consent under draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
[5] Clause 58 (1)	*(d) development for the purposes of a helipad that is a patient transport facility*	It is considered totally inappropriate to enable development for the purposes of a helipad to be carried out without consent on **any land** within the boundaries of **any** existing health services facility. For example it is inconceivable that a "*health consulting rooms*" development would need a helipad. Whilst the parent term "*health services facility*" includes "*patient transport facilities, including helipads and ambulance*" the only type of health care facility that includes patient transport facilities in its definition under the Standard Instrument is "*hospital*". Part (e) of that definition includes "*patient transport facilities, including helipads, ambulance facilities and car parking.*" It should also be noted that the proposed amendment does not include provisions relating to other types of patient transport facilities such as ambulance facilities. It is recommended that paragraph (d) be amended to read: *(d) development for the purposes of a patient transport facility, other than a helipad.*
[5] Clause 58 (1)	*(e) development for the purposes of car parks to service patients or staff of, or visitors to, the health services facility (or other premises within the boundaries of the facility),*	Concerns are raised in relation to the inclusion of development for the purposes of car parks as being development permitted without consent when no restrictions are imposed on those car parks. Proposed paragraph (f) and currently worded does not apply to development for the purposes of car park. Consequently development for the purposes of a multi storey carpark in excess of 12m in height and less than 5m from a property boundary within the boundaries of an existing health services facility could be carried out without consent. The proposed development permitted without consent provisions relating to schools, universities and TAFE establishments in draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 only allow "*a car park that is*

		not more than one storey high" where it is constructed "*more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone"*. If development for the purposes of car parks within the boundaries of an existing health services facility is to be made a form of development permitted without consent, such development should have similar limitations as those proposed for car parks for schools, universities and TAFE establishments.
[5] Clause 58 (1)	*(f) without limiting paragraph (a), (b) or (c), development for the purposes of any buildings that are not more than 12m in height and located no closer than 5m from any property boundary*	The wording of the proposed paragraph is confusing. The paragraph starts off with the words "*without limiting paragraph (a), (b) or (c)"* but the intent expressed in the remainder of the paragraph is at odds with those words in that it would appear to be restricting the types of development permitted without consent under those paragraphs to "*buildings that are not more than 12m in height and located no closer than 5m from any property boundary*". A one size fits all 5m setback and 12m building height requirement for development without consent for "*health services facilities*" on "**any land**" is considered inappropriate in residential zones, especially on land in a R2 Low Density Residential zone. It is considered different requirements should be set dependent on the zoning of the land similar to that proposed in other environmental planning instruments. For example the provisions relating to Schools - development permitted without consent in Clause 30 under draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. Under that clause development permitted to be carried out without consent is limited to certain buildings that are "*not more than one storey high*" where that building is located "*more than 5 metres from any property boundary with land in a residential zone*." The one size fits all approach is also not appropriate for each of the development types which fall under the parent term "*health services facility*". For example a 5m setback requirement and 12m height control would be inappropriate control for "*health consulting rooms*" particularly considering that under the definition of that term such rooms are required to be within the curtilage of a dwelling house. It is also considered that the development without consent provisions should include requirements limiting the gross floor area of additions and/or the intensity of development with separate requirements for each type of health services facility. In the case of the intensity of development for hospitals, it is considered that an approach similar to that adopted for police stations in amendment **[10]** of Schedule 7 – emergency

		and police services facilities and bush fire hazard reduction should be used, with the part (b) provision being amended to incorporate (reinstate) the existing provisions in clause 58 (2). However rather than having a standard based on *"the number of patients accommodated at the facility"* it is considered more appropriate that that standard be based on number of beds. As the definition of "*hospital*" under the Standard Instrument includes ancillary purposes including "*education purposes*", it is considered a requirement should also be included for hospitals like that included for educational establishments. In this regard the following paragraph is suggested: Development under this clause for the purpose of making any alteration of, or addition to, an existing hospital may be carried out by or on behalf of a public authority without consent on any land, but only if the alteration or addition does not: (a) in the opinion of the determining authority for the purposes of Part 5 of the Act (if applicable), result in any significant adverse effect on the amenity of the locality, including by increasing the volume of traffic, interfering with traffic flows, reducing the availability of parking or increasing noise, or (b) allow for the number of staff employed at the hospital, or allow the number of beds provided within the hospital, or allow the number of persons attending the hospital for training or education at the hospital, as compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development, to increase by more than 10 percent. In the case of the intensity of development for medical centres the above part (b) requirement should be reworded to read: (b) allow for the number of staff employed at the medical centre, as compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development, to increase by more than 10 percent. Paragraph (a) relates in part to "*the alteration of … a building that is a health services facility*". Providing there is not more than a minimal resultant increase in the number of staff, patients or beds as the consequence of the carrying out of internal alterations to the health services facility, it is considered unnecessary to restrict those alterations to buildings that are not more than 12m in height and located not closer than 5m from a property boundary. It is recommended that paragraph (f) be deleted and additional clause(s) be added for each specific development type referred to in Clause 58 (1) with the requirements relating

		to such matters as intensity, heights, setbacks with the requirements set having regard to context and neighbourhood character including such matters as the zoning of the land and adjoining land and development on adjoining land.
[5] Clause 58 (2) (a)	*(2) Without limiting subclause (1), any of the following development may be carried out by or on behalf of a public authority without consent on any land if the development is preliminary to, and for the purpose of facilitating, other development that is for the purpose of a health services facility:* *(a) clearing of vegetation (including any necessary cutting, lopping, ringbarking or removal of trees) and associated rectification and landscaping,* *(b) relocation or removal of utility services.*	Part 3 Division 3 Educational Establishments of the Infrastructure SEPP is proposed to be deleted from the Infrastructure SEPP with that form of infrastructure facility to be governed under the proposed *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*. Following the deletion of the Educational Establishments Division out of the Infrastructure SEPP only the development without consent provisions relating to "*correctional centres and correctional complexes*" (Division 2) and "*research and monitoring stations*" (Division 16) permit the clearing of vegetation. Those provisions include the following limitation that the clearing of vegetation "*does not involve clearing of more than 2 hectares of native vegetation*". The proposed provision relating to "*health services facilities*" does not include any limitation as to the amount of vegetation, or the quality of the trees and vegetation, that can be cleared. The boundaries of existing health services facilities, such as hospitals, are generally quite extensive and many existing public hospital sites have significant trees and extensive tree coverage and vegetation within their grounds. In many cases those trees and vegetation make an important contribution to the quality, character, amenity and biodiversity of the area. To permit that vegetation to be cleared, with no appropriate safeguards in place, to facilitate a development permitted without consent under Clause 58 would not be a good environmental outcome. Apart from the issue of being inconsistent with the development without consent provisions for other infrastructure facilities under the Infrastructure SEPP, concerns are also raised that there is no restriction on the types of trees including the significance of the tree(s) that could be removed including such matters as the contribution the tree(s) provide to the site and/or the locality in terms of its significance to the landscape and amenity and native habitat, or a limitation on the area that can be cleared of vegetation. There are also no requirements such as a requirement compensatory or replacement planting. It is noted that one of the general requirements for exempt development under clause 20 is that the development: *"(g) must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent."*

		However such a requirement does not apply to types of development that are permitted to be carried out without consent. It should also be noted that under the exempt development provisions relating to existing schools, existing universities and existing TAFE establishments contained in State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 contain the following provision: "*the removal or lopping of a tree that has been assessed by an appropriately qualified arborist as posing a risk to human health or safety or of damage to infrastructure*" (proposed Clauses 32 (b), 42(b) and 49 (b) respectively). Without appropriate safeguards in place it is considered that paragraph (a) should be deleted.
[6] Clause 58A (1)	*(1) This clause applies to development carried out by or on behalf of a public authority under Clause 58 (1) (a), (d) or (f).*	As paragraph (f) incorporates references to paragraphs (a), (b) and (c) the notification requirements proposed in Clause 58A would apply to all the development types referred to in Clause 58 other than development for the purposes of carparks (paragraph (e)). It is considered that the notification requirement should apply to all types of developments referred to in Clause 58.
Clause 58C		A similar provision to that discussed in relation to Clause 48 (2AA) should be included in the clause.
	(1) (d)…….or a child care facility"	A child care facility should not be included as a type of development able to be carried out as complying development on land within the boundaries of an existing health services facility. It is noted that the draft State Educational Planning Policy (Educational Establishments and Child Care Facilities) 2017 does not include "*child care facilities*" as a type of development able to be carried out as complying development.
	(2) Development under this clause must not cause any building to exceed 12m in height and any building resulting from the development must not be located closer than 5m from any property boundary.	Concerns are raised with the height control of 12 metres if the R2 Low Density Residential zone becomes a prescribed zone, as proposed in amendment **[2]**. The maximum building height permitted under environmental planning instruments for development on land within that zone is generally limited to not more than 9.5 metres.
	(3) The footprint of the building demolished under this clause must not exceed 250m2	It is considered that the demolition specification should be based on the floor area of the building rather than the footprint of the building. Other proposed amendments, such as Clause 97A (d) (i) specify a maximum gross floor area of a building that can be demolished. (**[16]** of Schedule 16). Under that clause the building to be demolished can't

		have a gross floor area in excess of 200m2. The maximum gross floor area specified for a building that can be demolished as complying development should be consistent throughout the SEPP.
	SCHEDULE 10 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – operational land	
General	The proposed Division 10a would extend 'exempt development' and 'development permitted without consent' parks and public reserves provisions to council operational land. This will diminish the land use difference between council's community and operational land. The proposed amendments would allow, for example, single storey car parks to be development permitted without consent without notification and community consultation. Operational land development does not require an adopted Plan of Management so the proposed amendments may lead to inappropriate development on council operational land if there is no community input.	
Clause 58E	*Development for any purpose referred to in Clause 65 (3) may be carried out without consent on operational land by or on behalf of a council.*	Clause 65 only to applies to development on a public reserve and therefore the proposed clause would have little application unless the public reserve was "*operational land*". To address the issue it is considered that the clause should be reworded to read as follows: Development for any of the following purposes may be carried out without consent on operational land by on or behalf of a council: (i) roads, cycleways, single storey car parks, ticketing facilities, viewing platforms and pedestrian bridges, (ii) recreation areas and recreation facilities (outdoor), but not including grandstands, (iii) information boards and other information facilities (except for visitors' centres), (iv) lighting, if light spill and artificial sky glow is minimised in accordance with AS/NZS 1158 Set:2010, *Lighting for roads and public spaces*, (v) landscaping, including landscape structures or features (such as art work) and irrigation systems, (vi) amenities for people using the reserve, including toilets and change rooms, (vii) food preparation and related facilities for people using the reserve, (viii) maintenance depots used solely for the maintenance of the reserve, (ix) environmental management works, (x) demolition of buildings (other than any building that is, or is part of, a State or local heritage item, a draft heritage item, or that is subject to an interim heritage order under the Heritage Act 1977, or is within a heritage conservation area or draft heritage conservation area) so long as the floor area of the building is no greater than 250 square metres. (xi) The demolition of a building referred to in paragraph (x) must:

		i. be carried out in accordance with Australian Standard AS 2601-2011, The demolition of structures, and ii. not involve the removal of asbestos, unless that removal is undertaken in accordance with Working with Asbestos: Guide 2008 (ISBN 0 7310 5159 9) published by the WorkCover Authority.
Clause 58F (1)	*Development for any purpose referred to in Clause 66 (1) is exempt development on operational land by or on behalf of a council.*	The proposed clause has similar issues as those raised in relation to proposed Clause 58E. To address the issue it is considered that the clause should be reworded to read as follows: (1) Development for any of the following purposes is exempt development on operational land by on or behalf of a council: (a) construction or maintenance of: i. walking tracks, raised walking paths (including boardwalks), ramps, stairways or gates, or ii. bicycle-related storage facilities, including bicycle racks and other bicycle parking facilities (except for bicycle paths), or iii. handrail barriers or vehicle barriers, or iv. ticketing machines or park entry booths, or v. viewing platforms with an area not exceeding 100m^2, or vi. sporting facilities, including goal posts, sight screens and fences, if the visual impact of the development on surrounding land uses is minimal, or vii. play equipment if adequate safety measures (including soft landing surfaces) are provided and, in the case of the construction of such equipment, so long as the equipment is situated at least 1.2m away from any fence, or viii. seats, picnic tables, barbecues, bins (including frames and screening), shelters or shade structures, (b) routine maintenance of playing fields, including landscaping, (c) routine maintenance of roads that provide access to or within those playing fields, including landscaping.
	SCHEDULE 11 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – public authority precincts	
Clause 58B	*(b) recreation facilities (outdoor), other than grandstands,*	Clause 58B (b) currently reads as follows: *"(b) outdoor recreational facilities, including playing fields and associated earthworks, but not including grandstands,".* Under the current wording of the clause, the clause would capture the terms "*recreation*

		area" and "*recreation facility (outdoor)"* under the definitions of those terms under the Standard Instrument. The proposed amendment to the clause would only apply to a "*recreation facility (outdoor)"* and not a "*recreation area*" as the definition of a "*recreation facility (outdoor)"* includes the wording *"(other than a recreation area)".* It is considered that the proposed clause should be amended to read: *(b) recreation areas and recreation facilities (outdoor), other than grandstands,*
	SCHEDULE 12 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – parks and other public reserves	
General	Council strongly supports the inclusion of '*recreation areas'* and *'recreational facilities (outdoor)'* as development without consent that may be carried out by or on behalf of a council.	
[4] Clause 65 (3)	*(c) demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area) so long as the footprint of the building covers an area no greater than 250 square metres.*	Similar concerns are raised in relation to the wording of the clause as those raised in relation to Clauses 20 (2) (e1), 58 (c) and 58C (3). It is considered that the paragraph should be amended to read: *c) demolition of buildings (other than any building that is, or is part of, a State or local heritage item, a draft heritage item, or that is subject to an interim heritage order under the Heritage Act 1977, or is within a heritage conservation area or draft heritage conservation area) so long as the floor area of the building is no greater than 250 square metres.* *d) The demolition of a building referred to in paragraph (c) must:* *i. be carried out in accordance with Australian Standard AS 2601-2011, The demolition of structures, and* *ii. not involve the removal of asbestos, unless that removal is undertaken in accordance with Working with Asbestos: Guide 2008 (ISBN 0 7310 5159 9) published by the WorkCover Authority.*
	SCHEDULE 13 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – port, wharf or boating facilities	
	Heading	It is considered that the heading for this Division should relate to specifically defined terms under the Standard Instrument. In this regard it is suggested that the heading be amended to read "*port facilities and wharf or boating facilities*".
[14]	*Paragraph (d) demolition*	As per comments made previously in relation to demolition it is considered the following additional provisions should be included: *(iii) The demolition of a building referred to in paragraph (d) must:* *a) be carried out in accordance with Australian Standard AS 2601-2011, The demolition of structures, and* *b) not involve the removal of asbestos, unless that removal is undertaken in accordance with Working with Asbestos: Guide 2008 (ISBN 0 7310 5159 9) published by the WorkCover Authority.*

[15] Clause 70 (f)	*(iii) does not display any commercial advertisements for or about anything other than the Newcastle Port Corporation (in the case of the area of a port managed by it) or any business operating in that area,*	The intent (and application) of proposed paragraph is unclear. Clause 70 as amended by **[13]** relates to "*Development for any of the following purposes is exempt development if it is lawfully carried out on land in the area of a port facility at a designated port managed by a Port Corporation or is vested in Roads and Maritime Services and complies with clause 20*". It is contended that under the proposed wording of paragraph (iii) that the provision would only apply to *land "in the area of a port facility at a designated port managed by a Port Corporation"* and not land *"in the area of a port facility vested in Roads and Maritime Services".* The words "*or any business operating in that area"* should be amended to read *"any business operating on land in the area of that port facility"* to be consistent with the wording of clause 70. It is considered that the paragraph should be amended to read: *(iii) (a) in the case of a port facility at a designated port managed by the Newcastle Port Corporation, does not display any commercial advertisements for or about anything other than that Port Corporation, or any business operating in the area of that port facility, or* *(b) in the case of a port facility at a designated port vested in Roads and Maritime Services, does not display any commercial advertisements for or about anything other than that Authority, or any business operating in the area of that port facility,*
[19]	*"(t) without limiting paragraph (q), (r) or (s)….."*	The paragraph also needs to include a reference to paragraph (f) (iii).
	SCHEDULE 14 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – public administration buildings and buildings of the crown	
[1] Clause 77	*(a) alterations of or additions to an existing public administration building*	The existing control under the SEPP, (clause 77 (1) (a)) only specifies "*minor alterations of or additions to a public administration building, such as internal fitouts, provision of access for persons with a disability or works for safety or security purposes"* as development permitted without consent on any land. The proposed amendment does not limit proposed additions to public administration buildings to only "*minor*" additions. Similar issues are raised in relation to the provision as to those raised in relation to the development permitted without consent provisions for other types of infrastructure facilities.
Clause 77	*(c) demolition of a public administration building*	Specifications for the demolition of public administration buildings should be included similar to those discussed previously for other types of infrastructure facilities.

	SCHEDULE 15 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – railways	
[9]	*Terminology* *Clause 81 (c)*	The clause uses the words "*railway complex*" which is undefined in the Infrastructure SEPP. A definition of "railway complex" should be included in Clause 78.
	Terminology *Clause 81 (c1)*	The clause uses the words "*transport interchange*" which is undefined term in the Infrastructure SEPP. However under part (b) of the definition of "*associated public transport facilities*" under the SEPP public transport interchanges are referred to as "*being locations intended for use by commuters to transfer between and to different kinds of public transport such as buses, trains and ferries."* As this section of the SEPP relates specifically to railways it is considered that the "*transport interchange*" referred to in the clause should be limited to railway public transport interchanges.
[10] **Clause 81 (3)**	*(3) Nothing in this clause requires a public authority to obtain consent for development that is permitted without consent by clause 79.*	The paragraph is considered unnecessary as the beginning of Clause 81 states (in part): *", being development that is not development of a kind referred to in clause 79*".
[17], [19] [24], [25], [27] & [28]	*Consistency* *Clauses 84 (2); 84 (3); 84 (5); 84 (6); 85 (2) (a); 86 (3); 86 (5); and 88 (3), (4)-(6)*	The amendment contained in to Clause 86 (3) **[24]** to in relation to concurrence includes the words "*without the concurrence of the rail authority for the rail corridor to which the development application relates*". The other paragraphs (excluding Clause 86 (5) referred to do not include the words "*to which the development application relates*". Proposed Clause 86 (5) uses the words "*without the concurrence of the rail authority concerned*". Clause 88 (3), (4)-(6) uses the words "*relevant rail authority*". There should be consistency in the wording of the subject paragraphs.
[20]	*Heading* *Clause 85*	The amendment should include an amendment to the SEPP to omit the heading and insert the new heading (as per the heading to **[20]**).
[20]	*Omit "immediately" from clause 85 (1)*	The deletion of the word "*immediately*" would result in the clause reading "*This clause applies to development on land in or adjacent to a rail corridor…*". The heading of the clause relates to land adjacent to rail corridors not land in rail corridors. Consequently the words "*in or immediately*" should be omitted from the clause.
[22]	*Heading* *Clause 86*	The amendment should include an amendment to the SEPP to omit the heading and insert the new heading (as per the heading to **[22]**).
[22]	*Insert ", below after "within" in clause 86 (1) (a)*	The proposed change would result in the subject paragraph reading "*within, below or above a rail corridor, or.*" It is considered that the paragraph read better if it was reworded "*within a rail corridor, or above or below a rail corridor, or*"
Clause 87	*Impact of rail noise or vibration on non rail development*	Changes to this clause should be made, similar to those recommended in the comments to Clause 102.

[29]	Definition *"rail authority for an interim rail corridor"*	It is considered that the proposed definition should be included in the definitions section in Clause 78.
[32]	Clauses 88C and 89	Council notes that existing clauses 88C *Development near proposed Rozelle Metro Station* and 89 *Review of land within interim rail corridors* are to be deleted. It does however question the accuracy of the Explanation of Intended Effect (EIE) that these clauses are redundant as the infrastructure has already been delivered. It has not.
	SCHEDULE 16 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – roads and traffic	
[2]	Definitions *"**Bus depot** means premises used for the servicing, repair or garaging of buses"*	The inclusion of the word "*garaging*" in the definition has some inherent issues in that it implies that the buses at the bus depot are housed in a building. It is considered that "*garaging*" should be replaced with the word "*parking*". Note: The word "*parking*" is used in the definition of "*transport depot*" under the Standard Instrument.
[6]		Concerns are raised in relation to where "*bus depots*" can be carried out without consent. One of those prescribed zones is the B4 Mixed Use zone. Under the definitions in the Standard Instrument the proposed definition of "*bus depot*" in the Infrastructure SEPP would constitute a "*transport depot*" under the definitions contained within the Standard Instrument. A "*bus depot*" is considered a type of development contrary to one of the objectives of the B4 Mixed Use zone, namely "*To provide a mixture of compatible land uses*". Transport depots are a prohibited development in the B4 Mixed Use zone in the majority of environmental planning instruments that apply to land in the Sydney metropolitan area. To permit bus depots in such zone is considered totally inappropriate, particularly as a form of development permitted without consent and without any development standards.
[7]	***Clause 94 (2)** (Corrects terminology and makes a formatting change.)* *Omit "**road infrastructure facilities**".* *Insert instead "a road or road infrastructure facilities".*	It is considered that the new term should be referred to as "*road or road infrastructure facilities".*
[11] **Clause 96**	Clause 96 (20 (a) (ii) *"used as a stop each day, by at least one bus per hour, between 6.00am and 9.00pm,"*	The proposed wording "*used as a stop each day*" would include "Saturdays, Sundays and Public Holidays". Commuter car parks are primarily required by commuters during the normal working week (Mondays to Fridays) and to a lesser extent on weekends. It is considered that a similar approach to the one taken in the definition of "accessible area" under State Environmental Planning Policy (Affordable Rental Housing) NSW 2009 should be adopted. In this regard it is suggested that the paragraph be amended to read:

		"used as a stop, by at least one bus per hour, between the hours of 6.00am and 9.00pm Mondays to Fridays and 8.00am and 6.00pm Saturdays and Sundays,"
[15] Clause 97 (1E)	Paragraph (1E) (b)	The subject paragraph makes the erection of an electric vehicle charger an exempt form of development in existing buildings for a number of listed development types. The listed development types do not specifically include any buildings of an infrastructure facility nature. It is recommended that public infrastructure facilities be added to the development types listed in paragraph (1E) (b).
[16] Clause 97A	General comments Complying development	This clause has some inherent problems associated with the issue raised previously in relation to proposed amendment **[5]** in Schedule 2, concerning complying development and Clause 20B.
	Preamble to paragraphs (a) to (j)	The preamble should include further qualified (similar to the requirement for "*air transport facilities*"). The words "if the development is ancillary to the bus depot, and the development" should be inserted after "*who is operating a regular bus service*".
	(a) Additions Gross floor area (a) (i)…..not more than 25 percent greater…."	It is considered there should also be an upper limit on the actual gross floor area increase similar to the provision relating to complying development in Division 13 of the SEPP. There should also be a provision specifying a minimum setback from adjoining property boundaries, like paragraph (f) (iv).
	(b)	Similar to the comment made in relation to paragraph (a) there should also be a provision specifying a minimum setback from adjoining property boundaries
	(d) *(i) a building having a gross floor area of not more than 200m2,*	The gross floor area specified is inconsistent with the controls that apply to other types of infrastructure facilities. It is also less than the proposed change to Schedule 1 of the Infrastructure SEPP in proposed amendment **[18]** in Schedule 2.
	Paragraph 97B (a) *(a) suitable screens or barricades must be erected prior to any demolition, excavation or building work in order to control dust emissions from the site,*	This additional condition should also apply to complying development for other types of infrastructure facilities developments.
[19] Clause 102		Changing the annual average daily traffic volume threshold from more than 40,000 to more than 20,000 vehicles is welcomed. To align terms with the Standard Instrument it is recommended that paragraph (1) (a) be amended to read "*residential accommodation*" and the words "*residential use*" in paragraph (3) be amended to "*residential accommodation*". Should the draft Educational Establishments and Child Care Facilities SEPP be gazetted in its current form, the term "*child care centre*" in paragraph (1) (d) should be amended to "*child care facility*".

[21]	Schedule 3 Traffic generating development to be referred to Roads and Maritime Services Commercial premises (other than restaurants or cafes)	Some of the other types of development listed in Column 1 of the Table would also fall into that category, namely "*drive-in take away food outlets*" and "*shops*". The wording in Column 1 should be amended to read "*Commercial premises (other than drive-in take away food outlets, restaurants or cafes or shops)"*.
	Child care centres	Note: This term is proposed to be amended to read "*child care facility*" under Draft SEPP (Educational Establishments and Child Care Facilities) 2017.
	Residential flat buildings	"*Residential flat buildings*" are the only type of residential accommodation listed in Column 1 of the Table. Other forms of residential accommodation such as "*seniors housing*" and "*shop top housing*" could contain 75 or more dwellings. It is suggested that "*seniors housing*" and "*shop top housing*" be listed separately in Column 1 with the same size or capacity as that specified for "*residential flat buildings*" or alternatively the term "*Residential flat buildings*" in Column 1 be replaced with the term "*Residential accommodation*"
	Transport depots	The size or capacity specified in Columns 2 and 3 of the Table for transport depots are based on gross floor area. It is considered that the size and capacity for transport depots should be based on "*site area*" rather than gross floor area.
	Any other purpose	The listing in Column 2 of the Table for such developments reads "*Any size or capacity*". This is clearly an error. The listing should be replaced with the current listing in the Infrastructure SEPP of "*200 or more motor vehicles*".
	Development types not listed in Column 1	A number of purposes of development currently listed (or their equivalent development term under the Standard Instrument) in Column 1 of the Table of the Infrastructure SEPP are not listed in the proposed amendment. Those development types include places of public worship, entertainment facilities (places of assembly), and recreational facilities (indoor), recreational facilities (major) recreational facilities (outdoor) (recreation facilities) and registered clubs. Under the existing Schedule 3 of the Infrastructure SEPP listings, all those development types have size or capacity specifications of 50 or more vehicles (Column 2 equivalent) and 200 or more vehicles (Column 3 equivalent). It is recommended that additional listings be added in the Table in Schedule 3 to include: i. Entertainment facilities; ii. Places of public worship; iii. Recreation facilities (recreation facility (indoor), recreation facility (major) and recreation facility (outdoor)); and iv. Registered clubs with the size and capacity thresholds for those developments being 50 or more vehicles (Column 2) and 200 or more vehicles (Column 3).

[21]		The Statement of Intended Effects states that RMS is proposed to be notified through an amendment to Clause 104 in relation to traffic generation that will apply generally to developments which are permitted without consent throughout the Infrastructure SEPP. (page 8). It is presumed the mechanism to achieve that is proposed paragraph (2A). The currently proposed amendments would not require RMS to be given written notice of the intention to carry out certain traffic generating developments, permitted without consent, under the Infrastructure SEPP. Clause 104 only "*applies to development specified in Column 1 of the Table to Schedule 3…*". Some of the uses which are permitted without consent throughout the Infrastructure SEPP are not specifically listed in the proposed amendment to the Table in Schedule 3 Traffic generating development to be referred to Roads and Maritime Services and as such there would be no requirement for RMS to be given written notice of the intention to carry out those developments.
	SCHEDULE 18 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – stormwater management systems	
[4]		No objections are raised in relation to the proposed amendment, however in light of amendment **[5]** being referred to as paragraph (2), the paragraph needs to be numbered (1).
	SCHEDULE 21 Amendment of State Environmental Planning Policy (Infrastructure) 2007 – waste or resource management facilities	
[2] Clause 121AA	Numbering of clause	In number sequencing the number 121AA would come after the number 121A. It is logical that the proposed clause is located after clause 121. Because clause 121A already exists it is suggested that clause 121A be renumbered 121AB.
	(1) (b) (ii) removal of litter or debris from stormwater improvement devices,	To be consistent with the wording in clause 112 (c) (i) concerning stormwater management systems the word "*quality*" should be inserted after "*stormwater*" in the subject paragraph.
	SCHEDULE 25 Amendment of State Environmental Planning Policy (Exempt and Complying Development) 2008	
Schedules 6,7, 8 and 9	Conditions applying to complying development certificates	Additional conditions should be added to those schedules to include the additional conditions ((8A) to (8D) inclusive) detailed in amendment **[8]** in Schedule 2.

ADDITIONAL COMMENTS ON TRANSFER OF EXEMPT PROVISIONS FOR REMOVAL OF TREES FROM SEPP (INFRASTRUCTURE) TO DRAFT SEPP (EDUCATIONAL ESTABLISHMENTS AND CHILD CARE FACILITIES) 2017

	Comment	Recommendation
1.	Council acknowledges the existing difficulty in accessing the School Facilities Standards - Landscape Standard, and supports the replacement of the requirements for 'the removal or lopping of a tree', with explicit requirements in the draft Educational SEPP. 'Lopping' is however outdated terminology and technically incorrect for the purpose it is used in the draft SEPP. The Australian Standard Pruning of Amenity Trees AS 4373—2007 states that 'lopping' is an unacceptable practice. If the SEPP retains the term 'lopping', this activity could take place in educational establishments in contravention of the Australian Standard Pruning of Amenity Trees AS 4373—2007 and in contradiction of modern tree management best practice. The Australian Standard Pruning of Amenity Trees AS 4373—2007 explains that 'lopping' increases the probability of branch failure thereby the level of risk to people.	The term 'pruning' should replace 'lopping' throughout the draft SEPP.
2.	**Clauses 32(b), 42(b) and 49(b)** The draft SEPP defines an '*appropriately qualified arborist*' as '*an arborist with a minimum AQF level 5 in Arboriculture*'. But, many AQF level 5 arborists do not have tree risk assessment expertise. A very large number of trees were unnecessarily removed from schools, at great cost, during the 2014 Department of Education tree risk audit by AQF level 5 arborists due to their lack of tree risk assessment expertise. Many AQF level 5 arborists also prune and remove trees. There is a clear conflict of interest where an arborist may benefit from making recommendations for tree removal.	The Education SEPP definition of 'appropriately qualified arborist' should be: • a minimum AQF level 5 qualification in arboriculture • with training and / or qualification in an industry-recognised tree risk assessment methodology, e.g. Tree Risk Assessment Qualification, Quantified Tree Risk Assessment. • who is not involved in and does not work for a business involved in the pruning and / or removal of trees

	The wording '*posing a risk to human health or safety or of damage to infrastructure*', is indefinite. Virtually every tree poses some level risk. The aim of all risk assessment is to identify and achieve an acceptable level of risk, not eliminate risk entirely. For example, a large tree with a monetary value of $50,000 could pose a low risk from branch failure to a section of fence worth $500. The current wording would permit the removal of this tree	The wording of the relevant clauses should be amended to '*posing a level of risk that is assessed as unacceptable, using an arboriculture industry-recognised tree risk assessment methodology*'. It should be noted that the wording does not need to identify human health and safety and infrastructure. There are intrinsic components of the risk assessment.
3.	Council arborists independently review of tree risk assessment reports to ensure that trees are not removed on the pretext of risk due to lack of expertise or inherent bias due to conflict of interest. The importance of trees as assets is ignored if they can be removed without appropriate qualify control of the process.	The tree risk assessment reports should be reviewed by suitably qualified and experienced professionals and, preferably by the relevant council to ensure that such assessment reports meet minimum standards. Compensatory or replacement tree planting should be a standard requirement for the removal of all trees.
4.	**Clause 35(b)** The Australian Standard *Protection of Trees on Development Sites* AS 4970—2009 does not provide a standard for 'removal or lopping of vegetation'.	The SEPP should require that removal and pruning should be carried out in accordance with Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.