

DOC17/197902-01

Ms Felicity Greenway
Director Infrastructure and Industry Policy
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Greenway

State Environmental Planning Policy (Infrastructure) 2007 Review

Thank you for the opportunity to comment on the draft State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

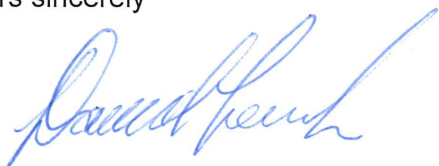
The Environment Protection Authority (EPA) has reviewed the Infrastructure SEPP package. Our comments are provided in the attached table. The table sets out comments on both the proposed amendments as well as comments on clauses not currently being addressed by the review. On 28 March 2017, the EPA met with officers from your department to discuss the EPA's draft comments. We appreciated that opportunity which assisted in finalising these comments.

The EPA's key issues are:

- Ensuring the streamlined process for exempt and complying development still requires appropriate assessment and management of environmental risks.
- Ensuring mechanisms are in place to support public authorities completing appropriate environmental impact assessments for activities permitted under the Infrastructure SEPP.
- Ensuring potential noise, air and water pollution impacts are assessed at the beginning of projects and managed appropriately.
- Achieving consistency between the terms and standards used in the Infrastructure SEPP and the various guidelines and EPA legislation called up by the SEPP.

If you require any additional information, please contact Michele Weight, A/Manager Regulatory Improvement and Support Section on 9995 5437 or michele.weight@epa.nsw.gov.au. The EPA looks forwards to continuing to work with the Department of Planning and Environment on this matter.

Yours sincerely



05/04/17

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Environment Protection Authority comments on Infrastructure SEPP review

[Green shaded rows = comments on proposed amendments in SEPP Infrastructure Amendment Review 2016]

Non highlighted rows = comments on existing provisions in Infrastructure SEPP]

Section or page reference	Issue or (suggested section for review)	EPA Comment / Recommendation
Clause 5	<p>Update reference to the 'Blue Book' to ensure it captures all relevant Blue Book publications.</p> <p>Since 2008 the Blue Book has expanded to include 5 additional volumes for activities requiring specialised guidance on best practice erosion and sediment control.</p> <p>These volumes can be accessed here: http://www.environment.nsw.gov.au/stormwater/publications.htm</p>	<p>The EPA recommends replacing the existing definition of:</p> <p><i>'Blue Book means Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and as in force at the commencement of this Policy'</i></p> <p>with</p> <p>'Blue Book means</p> <ul style="list-style-type: none"> • Volume 1 - Managing Urban Stormwater: Soils and Construction, March 2004 (Landcom) • Volume 2A - Managing Urban Stormwater: Soils and Construction: Installation of Services, January 2008 (Department of Environment and Climate Change) • Volume 2B - Managing Urban Stormwater: Soils and Construction: Waste Landfills, June 2008 (Department of Environment and Climate Change) • Volume 2C - Managing Urban Stormwater: Soils and Construction: Unsealed roads, January 2008 (Department of Environment and Climate Change) • Volume 2D - Managing Urban Stormwater: Soils and Construction: Main road construction, June 2008 (Department of Environment and Climate Change)
Clause 5	<p>It is currently proposed to amend clause 5(2) definition of emergency work to delete 'or arson' and add 'arson or pollution incident'.</p>	<p>The EPA recommends that 'pollution incident' be listed as a separate paragraph and that a note be added after 'pollution incident' as follows:</p>

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		<p>Note: a pollution incident which requires emergency works to be carried out may require notification in accordance with section 148 of the Protection of the Environment Operations Act 1997.</p>
<p>Clause 20 and Clause 20B</p>	<p>It is important that projects, including exempt and complying development, are planned, constructed and managed appropriately. To do this, all relevant issues need to be considered at an early stage. This minimises the chance of issues arising at a later stage when it might be difficult to manage or mitigate them.</p> <p>The EPA recommends that the general requirements for exempt and complying development be amended to more adequately provide for the proper assessment, mitigation and management of the environmental impacts of exempt and complying development.</p> <p>The EPA's suggested additions are issues that regularly come up with these sort of projects.</p>	<p>It is recommended that the following issues be included as requirements to ensure proponents appropriately manage or mitigate impacts:</p> <ol style="list-style-type: none"> 1. undertake a noise impact assessment (proportionate to the circumstances of the case) and implement feasible and reasonable noise mitigation and management measures 2. adopt recommended standard construction/demolition hours [i.e. 7.00 am to 6.00 pm Monday to Friday, and 8.00 am to 1.00pm Saturdays with no work on Sundays or public holidays] 3. assess and implement appropriate dust mitigation and management measures 4. assess potential soil and groundwater contamination 5. assess all potential risks to receiving waters and implement appropriate prevention, control or mitigation measures, 6. properly classify material containing asbestos and ensure it is transported and disposed of to a landfill legally able to accept that waste. [Noting review proposes clause 20 (2) (h) which addresses SafeWork requirements for handling asbestos containing material] 7. comply with standards for installing and validating removal of Underground Petroleum Storage Systems (e.g. those likely to be associated with emergency back-up generators used in health services, emergency services and other essential services facilities)

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		<p>8. assess PCB contamination potentially associated with demolition of old electrical installations (example: substations) and</p> <p>9. investigate potential risks associated with demolishing structures at health services facilities, particularly those involving nuclear medicine at some time in their history. For example: is demolition waste likely to contain radioactive material at levels of concern; whether 'regulated material' (within the meaning of the Radiation Control Act 1990) will need to be disposed.</p> <p>The EPA is open to the mechanism for achieving the above, but recommends that they are mandatory requirements. It might (for example) be achieved by:</p> <ul style="list-style-type: none"> • amending clauses 20 and 20B to include specific subsections (particularly points 1-5 above) or including in a Note. • developing and releasing better guidance on what is an appropriate assessment; or • amending the Exempt and Complying Development Codes SEPP.
Clause 20B and 20C	<p>In the current Infrastructure SEPP development that has minimal environmental impact is required to be carried out in accordance with the Blue Book (clause 20(2)(c)).</p> <p>There is no equivalent requirement in clause 20B 'General requirements for exempt development' or clause 20C 'General conditions of complying development certificates'.</p> <p>Further, draft amendment clauses 130-131 outline requirements for complying developments in relation to connections to Sydney and Hunter water supply; The type of work that can fall under this category of complying development is not insignificant. Development under these clauses is subject to conditions in clauses 20B and 20C. It should be completed in accordance with the full requirements of the Blue Book.</p>	<p>It is recommended that Clauses 20B and 20C be amended to require such development to be carried out in accordance with all requirements of the Blue Book; as defined in the extended definition recommended by the EPA above.</p> <p>Note: the 'Blue Book' only relates to erosion and sediment control. If the runoff contains other pollutants (e.g. from contaminated land, leachate) then there should also be appropriate requirements to minimise or prevent water pollution (e.g. larger basins to capture and treat the runoff). See general comments regarding clauses 20B and 20C and appropriate environmental assessments above.</p>

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Clause 20C(8)	Clause 20C(8) 'General conditions of complying development certificates' states that erosion and sediment controls must be effectively maintained until the site has been stabilised and landscaped'. This requirement does not include the requirement to adequately and appropriately assess and/or install erosion and sediment measures.	It is recommended that Clause 20C(8) is amended to require application of the Blue Book; as defined in the extended definition recommended by the EPA above.
Clause 26	<p>The activities that a public authority can carry out at correctional centres without consent can include constructing and operating recreation facilities, demolishing buildings, and replacing accommodation. Correctional facilities can operate facilities such as commercial laundries.</p> <p>These activities can have significant noise impacts on surrounding residences and other noise sensitive land users.</p> <p>Similar themes arise in other comments the EPA has on this review. They have also arisen in the context of other SEPP reviews, most recently the Educational Establishments and Child Care Facilities SEPPs.</p>	<p>It is noted that public authorities are required to complete environmental impact assessments for this sort of development, however, the EPA has concerns about the quality and consistency of these assessments.</p> <p>Discussions with DPE indicate a possible solution could be developing better guidance on Part 5 assessments, similar to that prepared for the Educational Establishment and Child Care Facilities SEPP. The EPA welcomes further discussion and work to resolve on this issue.</p>
Clause 41(2)(a)	Fluid filled cables are currently being decommission because of the environmental risks they pose. These cables can be filled with substances such as mineral oil or alkyl benzene. They have resulted in leaks and spills in ordinary circumstances such as soil subsidence and unusual situations such as cable breakage. Modern cable does not need to be fluid filled.	It is recommended that clause 41(2)(a) excludes the laying and installation of new fluid filled cables and only permits emergency works or routine maintenance works on existing fluid filled cables.
Clauses 41(2)(a)(i), 41(2)(a)(v), 41(2)(d) and 43(1)(g)	<p>An electricity supply authority or public authority can:</p> <ul style="list-style-type: none"> lay and install underground cables and construct tunnels for underground cable without consent 	It is noted that electricity supply authorities are required to complete environmental impact assessments for this sort of development, however, the EPA has concerns about the quality and consistency of these assessments.

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	<ul style="list-style-type: none"> • construct access tunnels or access tracks without consent • establishing a new substation and • demolishing or removing certain electricity works <p>without consent.</p> <p>These are activities that by their nature are likely to need a range of environmental impact mitigation and management measures. For example precautions are required for the risk of leaks and spills, limits on the hours of work including intra-day respite periods for those activities that emit highly intrusive noise, limits on ground borne noise due to tunnelling, dust control and management, erosion and sediment control, managing groundwater intrusion and treatment/disposal of this water, waste classification and waste disposal.</p>	<p>Discussions with DPE indicate a possible solution could be developing better guidance on Part 5 assessments, similar to that prepared for the Educational Establishment and Child Care Facilities SEPP. The EPA welcomes further discussion and work to resolve these issues.</p>
Clause 41(2)(f)	<p>The current proposal broadens the application of the existing clause from generating units at a substation and maintenance depot to any premises. This creates the potential for development of large quantities of generating capacity in the metropolitan area without environmental assessment.</p>	<p>It is recommended that the proposed amendment to clause 41(2)(f) is further amended so it is more consistent with the Protection of the Environment Operations Act 1997 (POEO Act).</p> <p>The following changes would better align the amendment with the POEO Act scheduled activity for metropolitan electricity works (internal combustion engines (Schedule 1 (17)):</p> <ul style="list-style-type: none"> - 'temporary network support' should be replaced with 'emergency temporary network support'. - 'capacity' should be replaced with 'capacity to burn fuel'. This removes possible confusion between megawatt–electrical and megawatt-thermal: in the case of reciprocating engines this could be a 3-fold difference in defined capacity from the same unit. - make the capacity threshold 3 mega joules/second (capacity to burn fuel). This corresponds to 3 megawatt-thermal and approximately 1 megawatt – electrical. - make clear the clause only applies to stationary reciprocating engines.

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		<ul style="list-style-type: none"> - note that any activity or plant (including stationary reciprocating engines) on non-scheduled premises must achieve an emission concentration of less than 100mg/m³ for solid particles (Protection of the Environment Operations (Clean Air) Regulation clause 44 and schedule 6).
Clause 58(1)	<p>The EPA is aware that existing health services have been found to include: soils contaminated with asbestos; structures with pipe work treated with friable asbestos; underground petroleum storage systems; buildings that have been used for nuclear medicine; old electrical installations potentially contaminated by environmentally hazardous polychlorinated biphenyl (PCB); soil and groundwater contaminated by historical use.</p> <p>The EPA is also aware that existing health service facilities can operate 24 hours a day 7 days a week and are typically located in residential areas; involve clinical and related waste management; may involve high operational potable water and energy demand; and may require licenses under the Radiation Control Act.</p> <p>Under this clause a public authority can complete a range of activities without consent, including demolishing buildings, constructing multi storey car parks and buildings, constructing roads. These are activities that by their nature are likely to need a range of environmental impact and management measures. For example, limits on the hours of work including intra-day respite periods for those activities that emit highly intrusive noise, dust control and management, erosion and sediment control, waste classification, operational noise impact and management, feasible and reasonable opportunities to implement water sensitive urban design and energy conservation and efficiency.</p>	<p>It is noted that public authorities are required to complete environmental impact assessments for this sort of development, however, the EPA has concerns about the quality and consistency of these assessments.</p> <p>Discussions with DPE indicate a possible solution could be developing better guidance on Part 5 assessments, similar to that prepared for the Educational Establishment and Child Care Facilities SEPP. The EPA welcomes further discussion and work to resolve on this issue.</p>

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General	<p>The EPA is aware that certain developments by public authorities at health care facilities have been staged and tendered out to specialist contractors. In the absence of an effective handover process between demolition contractors, bulk earthworks contractors and general builders (for example) satisfactory environmental performance may not be assured across and particularly between stages.</p>	<p>It is recommended that an amendment is made to ensure seamless transition of pollution controls and other protection measures between the various stages of development undertaken (with or without consent) at an existing health care facility.</p> <p>The amendment might be a general statement emphasising that the proponent needs to take responsible for and effectively manage overall environmental management of the project.</p>
Clauses 58A	<p>Clause 58A requires the public authority carrying out certain activities to notify local council and neighbours. It then requires the public authority to 'take into consideration' any response to the notice.</p> <p>The EPA considers 'take into consideration' is difficult to enforce. It could be satisfied by reading the response.</p>	<p>It is recommended that clause 58A(2)(b) be amended so 'take into consideration' is replaced by something to the effect 'consider the feasibility of implementing changes to address any concerns raised in the response and implement any reasonable and feasible measures'.</p>
Clause 65(3)	<p>The EPA is aware that many parks and reserves are located on land that was low lying or adjacent to a waterway and reclaimed by the means of uncontrolled fill material, and encompasses a closed landfill or a previous industrial use that contaminated the land and that has been rehabilitated and made suitable for use, including installation of an engineered capping layer.</p> <p>The EPA notes that some closed landfills under parks and reserves continue to be managed with pollution controls used to manage leachate and landfill gas. Development without consent and exempt development on a park or other public reserve should not involve activities/works that would disturb, intersect or otherwise interfere with existing contaminated land management actions. For example interfering with:</p> <ul style="list-style-type: none"> underlying contaminated fill material, 	<p>It is recommended that clause 65(3) be amended to explicitly state that any such works should not disturb, intersection or otherwise interfere with existing contaminated land management actions.</p>

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	<ul style="list-style-type: none"> any engineered capping layer, drainage system or pollution control installed to manage a closed landfill, or any engineered capping layer or drainage system installed to make a contaminated site suitable for use as a park or public reserve. 	
Clause 68	The amendment adds detail on the kinds of dredging Newcastle Port Corporation and Roads and Maritime Services can undertake without consent. It appears to expand the type of dredging allowed without consent. Public authorities are required to complete environmental impact assessments for this sort of development, however, the EPA has concerns about the quality and consistency of these assessments.	It is recommended that the clause be amended to ensure an appropriately high standard environmental impact assessment is completed and acted on for these activities.
Clause 87	Clause 87 of the (current) Infrastructure SEPP refers to “land in or adjacent to rail corridors” as the trigger to consider rail noise. A quantitative trigger is more appropriate to define “adjacent”, to identify where a development encroaching on existing rail infrastructure should consider potential rail noise impacts.	It is recommended that clause 87 be amended so the trigger for considering rail noise is changed from ‘land in or adjacent to a rail corridor....’ to ‘noise sensitive receivers within 300 metres of a rail infrastructure corridor’
Clause 95A	<p>Clause 95A requires the public authority carrying out certain activities to notify local council and neighbours. It then requires the public authority to ‘take into consideration’ any response to the notice.</p> <p>The EPA considers ‘take into consideration’ is difficult to enforce. ‘Take into consideration’ could be satisfied by reading the response. The EPA does not believe this is the intended effect.</p>	It is recommended that clause 95A(2)(b) be amended so ‘take into consideration’ is replaced by something to the effect ‘consider the feasibility of implementing changes to address any concerns raised in the response and implement any reasonable and feasible measures’.
Clause 96(3)	Clause 96(3) describes development for the purposes of recharging or exchanging the batteries of electric vehicles. If	It is recommended that clause 96(3) be amended to include a note indicating in that situation the EPA should be consulted regarding licensing triggers.

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	these batteries contain lead acid an EPA environment protection licence may be required for storing, treating processing or transporting the batteries.	
Clause 97A(h)	Clause 97A(h) describes requirements for underground petroleum storage systems within bus depots.	It is recommended that clause 97A(h) be amended to refer to compliance with the Protection of the Environment Operations Act (Underground Petroleum Storage System) Regulation 2014.
Clause 102	This clauses amends the trigger for consideration of the Impact of road noise or vibration on non-road development.	The EPA supports the proposed amendment to clause 102, to reduce the trigger for assessing road impacts from an annual average daily traffic volume of 40,000 to 20,000.
Clause 102	<p>Clause 102(2) requires DPE's Development near Rail Corridors and Busy Roads - Interim Guideline to be considered when determining a development application on a road corridor. These Guidelines address noise and air impacts.</p> <p>Clause 102(3) prescribes minimum noise standards but not air standards. The result is compliance with air controls varies and is very difficult to enforce. This increases the risk to the community of higher health impacts as Sydney grows, road and rail networks expand, economic and freight activity rise and densities along corridors increase.</p> <p>The EPA has reviewed and collated research on the range of approaches for addressing exposure to air pollution along road and rail corridors. This information has been raised with DPE through a number of interagency meetings.</p> <p>The EPA notes that Urban Growth NSW has specified a 20m air quality setback for residential parts of developments along Parramatta Road, see p61 of the Planning and Design Guidelines</p>	<p>The EPA recommends that development permitted under the Infrastructure SEPP is required to meet minimum air controls. The EPA is not attached to a specific mechanism for addressing this issue.</p> <p>The EPA is open to a mechanism similar to the setbacks in the Urban Growth NSW Planning and Design Guidelines.</p> <p>Alternatively, clause 102 could be amended to enhance the requirements for considering air pollution exposure along road and rail corridors. This can be done by requiring, where appropriate, setbacks for sensitive development, best-practice design features to mitigate exposure and mechanical ventilation.</p>

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	http://www.urbangrowth.nsw.gov.au/assets/Publications/PROAD-0011-Land-Use-and-Design-Guidelines-Email.pdf .	
Clause 125	<p>It is proposed to expand the works public authorities can undertake without consent on water supply systems, to include reuse of water treatment residuals. Residuals includes sludge.</p> <p>The addition is unclear and could be interpreted to allow reuse on land. Water treatment residuals contain high levels of metals (e.g. aluminium) and other potential pollutants of concern. The EPA does not consider the inclusion of this activity in its current form to be appropriate.</p>	<p>It is recommended that the intention of this addition be clarified, including what reuse is intended to be covered by the amendment.</p> <p>Before reusing any residuals, an appropriate environmental assessment should be required to determine how the materials can be used.</p>
Clause 131	<p>Complying development for connections to Sydney and Hunter water supply and sewerage include a requirement to notify adjoining owners within 20 metres of the development works, It is the EPA's experience that the noise impacts from sewerage and water supply activities, include high noise impacts activities (e.g. jack hammering, saw cutting etc.) that could potentially affect residents/community for a greater distance than 20m.</p>	<p>It is recommended that the Infrastructure SEPP give greater consideration to including noise impacts and measures to mitigate noise impacts, for example by referring to consideration and application of applicable Interim Noise Guidelines.</p>
Consistency with EPA Guidelines and Policies	<p>It is important the Infrastructure SEPP requires proper consideration of relevant EPA guidelines and policies.</p> <p>The current version appears to have some inconsistencies with EPA's guidelines. For example, the construction hours adopted are inconsistent with the standard hours recommended in the Interim Construction Noise Guideline. This revision provides the opportunity to ensure that any person proposing to undertake an infrastructure development project gives consideration to the relevant EPA's guidelines and policies.</p>	<p>It is recommended that the Infrastructure SEPP adopts the EPA's current guidelines and policies relevant to environmental assessment, perhaps as a list in a Schedule to the SEPP.</p> <p>The agencies should discuss ways a comprehensive list can be called up by the SEPP and easily accessed by proponents. A list that can be easily updated by agencies to ensure it remains current.</p> <p>Currently, EPA guidelines and policies that may have relevance to development of infrastructure include:</p> <ol style="list-style-type: none"> 1. Guidelines for the Vertical Mixing of Soil on Former Broad-acre Agricultural Land (January 1995) 2. Sampling Design Guidelines (September 1995)

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		<ol style="list-style-type: none"> 3. Guidelines for Consultants Reporting on Contaminated Sites (reprinted August 2011) 4. Guidelines for Assessing Former Orchards and Market Gardens (June 2005) 5. Guidelines for the NSW Site Auditor Scheme, 2nd edition (April 2006) 6. Guidelines for the Assessment and Management of Groundwater Contamination (March 2007) 7. Unhealthy Building Land Policy, April 2003 8. New South Wales Industrial Noise Policy (INP), January 2000 9. Assessing Vibration: a technical guideline, February 2006; Managing Urban Stormwater Soils and Construction Volume 2A Installation of Services January 2008 10. Interim Construction Noise Guideline (ICNG), July 2009 11. NSW Road Noise Policy, March 2011 12. Blue Book Volume 1 - Managing Urban Stormwater: Soils and Construction, March 2004 (Landcom) 13. Blue Book Volume 2A - Managing Urban Stormwater: Soils and Construction: Installation of Services, January 2008 (Department of Environment and Climate Change) 14. Blue Book Volume 2B - Managing Urban Stormwater: Soils and Construction: Waste Landfills, June 2008 (Department of Environment and Climate Change) 15. Blue Book Volume 2C - Managing Urban Stormwater: Soils and Construction: Unsealed roads, January 2008 (Department of Environment and Climate Change) 16. Blue Book Volume 2D - Managing Urban Stormwater: Soils and Construction: Main road construction, June 2008 (Department of Environment and Climate Change) 17. Blue Book Volume 2E - Managing Urban Stormwater: Soils and Construction: Mines and quarries, June 2008 (Department of Environment and Climate Change) 18. Waste Classification Guidelines (Part 1: Classifying waste, Part 2: Immobilising waste, Part 3: Waste containing radioactive material, and Part 4: Acid sulfate soils), November 2014 19. Radiation Guidelines 1 to 7

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		<p>20. Guidelines on the Duty to Report Contamination under the Contaminated Land Management Act 1997 (September 2015);</p> <p>21. Using the ANZECC Guidelines and Water Quality Objectives in NSW (DECC 2006)</p> <p>22. Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000)</p> <p>23. Underground Petroleum Storage Systems: Best practice guide for environmental incident prevention and management.</p>
Noise	Currently there is minimal consideration of noise impact and/or measures to minimise noise or mitigate noise impacts from development. There is no reference to development being undertaken in accordance with any of the relevant noise guidelines (i.e. Interim Construction Noise Guidelines). The only reference for complying development includes time restrictions for construction or demolition works (clause 20C(6)).	<p>It is recommended that greater consideration be given to including noise impacts and measures to mitigate noise impacts including:</p> <ul style="list-style-type: none"> - The note to clause 20C refers to the POEO Act and Protection of the Environment Noise Operations (Noise Control) Regulation 2008 but it would be improved with extra detail of how that legislation applies to the Infrastructure SEPP - Exempt development for sewerage systems (clause 107) does not include any requirement to consider noise impacts or implementing noise measures.
Noise	Currently, the Infrastructure SEPP requires encroaching sensitive development to achieve defined internal noise levels based on current road and/or rail traffic volumes.	It is recommended that the Infrastructure SEPP include a provision to require an assessment to take account of future traffic volumes (for example, 10 years after construction of the development) to account for potential increase in rail or road traffic noise.
Noise	One of the unintended consequences of the Infrastructure SEPP, is if an existing residential development builds an extension then they may need to consider noise impacts and this could make works financially unviable.	It is recommended that the Infrastructure SEPP include a provision so noise requirements are only activated for changes to existing properties when there is a change in density. For example, if a single residential building is to be demolished to make way for units.
Contaminated Land	There are a number of scenarios where activities permitted under the Infrastructure SEPP or proposed to be permitted under the Infrastructure SEPP review could have implications for contaminated land management.	It is recommended that the Infrastructure SEPP require that exempt and complying development projects appropriately consider contaminated land management issues at the planning and development stage. This needs to be done to ensure land contamination is assessed and managed so the land is suitable for its proposed use.

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	<p>For example:</p> <ul style="list-style-type: none"> • Changes that permit existing sites to have more sensitive land uses on them but where existing site conditions could affect the suitability of the site for the more sensitive use. • Where existing facilities may have been developed on a previously contaminated site and there are conditions on that land that require ongoing management (e.g. maintenance of a concrete slab to prevent contact with residual contamination). Further development that is exempt or does not require consent could jeopardise the integrity of existing measures, 	<p>The EPA is open to exploring a number of mechanism to achieve this.</p>
Private entities and public authorities	<p>Clause 277 to the Environmental Planning and Assessment Regulation 2000 prescribes certain entities (e.g. Australian Rail Track Corporation) as public authorities for limited purposes.</p> <p>The EPA recently made a joint submission with OEH expressing concern (re Educational Establishments and Child Care Facilities SEPP) about proposed provisions that appear to award 'public authority' status to certain <u>private</u> entities for the purposes of facilitating development of private educational establishments.</p> <p>The EPA understands that Schedule 9 to the Infrastructure SEPP review does not propose to identify private health services facilities operators as public authorities. The EPA would not support any amendment seeking to identify any private operator(s) of an existing health services facility as a 'public authority'.</p>	<p>The EPA would not support any amendment seeking to identify any private operator(s) of an existing health services facility as a 'public authority'.</p>

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	<p>However, Part C (Proposed Key Amendments Health services facilities) to The Explanation of Intended Effect document proposes at dot points 6 and 7 to expand the application of 'exempt development' to privately operated health services facilities (see draft clause 58B of the infrastructure SEPP).</p>	