



The Association of Independent Schools of New South Wales Limited

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7 April 2017

Ms Felicity Greenway
Director, Industry and Infrastructure Policy
Department of Planning and Environment
PO Box 39
Sydney NSW 2001

Dear Ms Greenway,

The Association of Independent Schools of New South Wales (AISNSW) welcomes the opportunity to provide feedback on the draft Education and Child Care State Environmental Planning Policy (the draft SEPP).

The AISNSW is the peak state body representing the independent schools sector in this State. The AISNSW represents more than 478 schools and campuses, enrolling approximately 195,000 students, and accounting for some 16% of NSW school enrolments.

Independent schools and the populations they serve are diverse. Many independent schools are small; almost half of independent schools enrol fewer than 200 students, and more than a third enrol fewer than 100 students. Independent schools can be found in communities across the breadth of SES areas, in metropolitan and regional locations. It is little understood that 74% of independent schools in NSW are classified as being in the lower range of the SES range. Many independent schools also operate or host early childhood education and care services.

For independent schools, the draft SEPP comes at a critical period of enrolment growth. Every year since 2010, enrolments in NSW independent schools (including independent Catholic schools) have grown by between approximately 3000 and 4000 students. This growth is projected to continue into the future, with modelling commissioned by the AISNSW indicating that by 2031 there will be demand for approximately 60,000-80,000 additional students. Additional student numbers will be accommodated in both existing and new schools and campuses.

The AISNSW supports the draft SEPP, and welcomes that the need to address growing enrolment demands into the future is reflected in the proposed changes.

However, a number of considerations have been raised by the independent schools sector in considering the draft SEPP. These considerations broadly fall under four objectives:

1. Allowing schools to make the most of the intended flexibility of the draft SEPP;
2. Ensuring limits on school development are evidence-based and best practice;
3. Minimising the administrative burden while ensuring schools comply with new requirements; and
4. Improving the ability of schools to meet community demand for early childhood education and care, primary, and secondary spaces.

Two critical points of feedback which the AISNSW would make strongly relate to certifying authorities and the consultation schools are required to undertake with Roads and Maritime Services.

The proposal that council certifiers be the only certifying authority who can issue complying development certificates would significantly detract from the proposed amendments aimed at changing unnecessary processes and other impediments. As an alternative, the AISNSW strongly recommends that the Department of Planning and Environment retains current practice, which allows for the use of both council certifiers and accredited certifiers.

Enrolments in independent schools across the State are increasing, and schools need to be able to accommodate growing student numbers. It is in our community's interest that children have a place to go to school. For that reason, it is essential that schools and government agencies are able to work collaboratively to resolve those issues which may prevent a school from being established or growing. The draft SEPP outlines at a number of points when schools will be required to consult with government agencies, including seeking certifications from Roads and Maritime Services.

The AISNSW believes that the role of Roads and Maritime Services in these circumstances should be to either provide the relevant certificates, or to identify the issues which need to be addressed for the proposal to be accepted. This approach would provide schools with the ability to work with Roads and Maritime Services to address any identified issues, while also supporting the growth in the capacity of independent schools which will be required in coming years.

Allowing schools to make the most of the intended flexibility of the draft SEPP

The ability of non-government schools to undertake development without consent on a similar basis to government schools is welcomed.

The intent of the greater flexibility afforded under complying development is also welcomed, however the AISNSW has concerns as to the ability of schools to use the complying development category to meet community demand for facilities and places given restrictions in place in the draft SEPP around the ability of schools to undertake excavation (Clause 33, 6 of the draft SEPP).

The ability to excavate to create usable spaces underground is important for existing schools working with a constrained footprint, where the ability to create storage or car parking spaces underneath new buildings will support increased enrolments or amenity. Providing for such facilities also supports schools address any community or council concerns related to staff parking on public streets. An alternative to the proposed exclusion of excavation works as complying development within the draft SEPP would be to include requirements on the use of excavation, as is the case with the SEPP (Exempt and Complying Development Codes) 2008.

In conjunction with allowing excavation of usable spaces as part of complying development, the AISNSW would support the removal of the limit on the number of storeys contained within the draft SEPP. This would allow for schools to accommodate storage or parking requirements underground, without losing one or more storeys of height above ground.

The AISNSW recognises the community expectation for a height requirement to be in place for complying development within the SEPP. That said, the Department of Planning and Environment could consider whether, in areas adjoining multi-storey buildings, community expectations would allow for an increased height limit for complying development. Many existing schools are now located in locations of extensive residential or commercial development comprised of buildings of ten storeys or more. In these situations, it may be in-keeping with community expectation and the existing streetscape for schools to be able to undertake complying development of more than 22m in height.

Many school sites contain heritage items, and for many school communities stewardship of buildings or sites of heritage impact is a point of pride. Under the draft SEPP, school sites which contain heritage items are not able to undertake complying development. The AISNSW believes the SEPP would be enhanced if schools were required to undertake a heritage assessment to determine if there is any likely impact on a heritage item from the proposed development, rather than be prevented from undertaking complying development entirely.

The draft SEPP allows for demolition, but places a limitation of 250m² on the footprint of the building (Clause 33). In some schools this may lead to schools developing upward on a smaller footprint rather than over fewer storeys and a larger footprint. The AISNSW would support the removal of this clause, given the existing limitations on the size of buildings created by the height limit and setback requirements.

For many schools, renovation of existing buildings removes available classroom space whilst building occurs. In the interests of supporting schools to take advantage of the increased flexibility available to them under the draft SEPP, consideration could be given to including provisions within the SEPP for schools to use interim facilities such as halls as classroom space. Such facilities may not be approved for use as classrooms by the local council but would meet the standards of the NSW Education Standards Authority. These kinds of exemptions could be time-limited.

Consideration of the issue of multiple property boundaries within a school would be welcomed by the AISNSW. Not many schools acquire the land on which they are built as a single property lot, but the acquisition of multiple lots at the one time, or the staged acquisition of surrounding lots as the school grows, are relatively common occurrences. The draft SEPP would be strengthened by replacing references to 'property boundaries' to 'boundary of an existing school.' This would prevent schools from needing to undertake extensive lot-consolidation processes prior to undertaking building works.

Ensuring limits on development are evidence-based and best practice

The AISNSW welcomes the guidance for consent authorities and applicants on regulating the expansion of schools. Consideration could also be given to developing, in close consultation with all stakeholders, a list of requirements, standards, or controls which would not apply to schools, as has been developed for centre-based child care services (Clause 24 of the draft SEPP).

The promotion of compromise and negotiation as a way to allow schools to address the concerns of councils and residents in flexible and creative ways is positive, and requiring councils to use evidence-based best-practice when imposing caps on development consent is a step forward.

More than a third of recently surveyed independent schools currently have an enrolment cap in place. The AISNSW is aware of a number of instances where these cap conditions may not meet the principles detailed in the draft planning circular. Consideration could be given to a mechanism within the SEPP which would allow for schools to seek a review of existing development conditions where those conditions are not outcome or evidence-based. A school may be in a position to provide evidence that previous estimates of traffic volumes have not eventuated, or to develop new strategies.

Minimising the administrative burden while ensuring schools comply with new requirements

The AISNSW notes that, alongside the greater flexibility and autonomy available to schools under the draft SEPP are accompanying responsibilities and requirements.

The AISNSW welcomes the opportunity to work with the Department of Planning and Environment to develop educational materials for the independent schools sector. This would support compliance with the new mandatory obligations relating to environmental assessment, consultation, and record keeping.

The requirements for schools to make publicly available on their websites Review of Environmental Factors (REF) documentation related to Minor Class 1 works and REF and Decision Statements for other works may create a significant administrative burden. If the intent of this requirement is consistency with GIPA, it may be more appropriate for schools to be required to respond to requests for information according to the criteria set out in the NSW Code of Practice for Part 5 activities rather than be required to pre-emptively publish certain documents. This is particularly the case as this documentation does not appear to be equivalent to documentation that government agencies are required to publish as 'open access information.'

Improved flexibility for schools to better meet community demand for early childhood education and care spaces

Many independent schools provide or host National Quality Framework regulated early childhood education and care facilities for school-aged and before-school-aged children. Additional independent schools may wish to provide or host such facilities in the future. For that reason, the AISNSW welcomes the consideration given to such services as part of the draft SEPP, and notes the recognition within the documentation given to the role of schools in providing the setting for many of these services.

The AISNSW supports parental choice, and welcomes the identification of those draft requirements, standards or controls which can no longer be used by councils in development control plans to restrict proposed developments (Clause 24). The decision to establish an early childhood education and care service by an independent school should be a decision for that school to make, informed by the demands and needs of a given school community. Reasons may include (but are not limited to):

- parental demand for education and care for the younger siblings of school students;
- a pedagogical approach which addresses the learning needs of children from birth;
- a preference for early learning to be provided by a service which operates in a way consistent with a family's religious or philosophical outlook;
- growth in enrolments; and
- a decision by a school to provide early learning in an environment which allows for a smooth transition into schooling.

The AISNSW also welcomes articulation of non-discretionary development standards. There is no reason to limit the colour of building materials or shade structures where there is no impact on heritage items (Clause 23). If there is no existing condition on the development consent applying to the school relating to the hours of operation, the AISNSW suggests that no limits on the hours of operation of school-based child care be imposed as a result of this act (Part 4, 34, d).

The AISNSW believes that consideration should be given to extending the streamlined planning processes proposed for school-aged care (i.e. out of school hours care provided on school grounds) to those pre-school and long-day care services which are to be located on school grounds. These services are currently defined in the draft SEPP as 'centre-based child care' rather than 'school-based child care.' Schools are ideally placed to provide early childhood education in locations where a stand-alone service would not be sustainable or feasible, such as in regional or remote areas. In an area of low population density, a service catering only to children below school age may not be viable. Schools should be supported to offer early learning in these contexts, such as by having the ability to undertake renovation of existing facilities to comply with the requirements of the National Quality Framework as exempt development (Clause 32, i).

This change would also be consistent with the intent of the SEPP to align national definitions and categories of early childhood education and care facilities with state planning definitions, as the definition in the draft SEPP of 'school-based care' is not found in the National Quality Framework. Instead, consideration could be given to treating all early childhood education and care services located on the grounds of schools the same way.

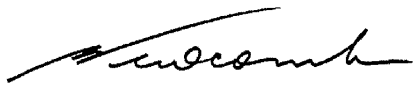
Concluding remarks

A revision of the planning policy for schools and early childhood education and care services is long overdue, and the thorough and consultative approach taken by the Department of Planning and Environment is to be commended.

In order to meet projected demand for schooling places, it is essential that the proposed amendments to the Planning Policy for educational establishments and child care facilities be resolved in a timely manner.

The AISNSW will be pleased to elaborate on any aspects of this submission as required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G. Newcombe', with a long horizontal stroke extending to the left.

Geoff Newcombe

Chief Executive