

URBIS

EDUCATION PLANNING REFORMS

SUBMISSION TO GOVERNMENT

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URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Directors	Anna Barclay and Rebecca West
Senior Consultant	Clare Warren

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1. INTRODUCTION

This report has been prepared to assist the State government to improve the planning system for non-government schools. Our submission is informed by consultation with over 20 schools and our national experience in this sector.

The submission discusses current challenges in Victoria, learnings from NSW and Queensland, and makes recommendations to improve timing and other issues.

To inform our submission Urbis held a workshop with a number of non-government schools, architects and project managers who have experience in the education planning sector.

The feedback from this workshop has been used in our submission to establish common themes and recommendations for change. The schools and businesses on the following page were consulted and support this submission.

We support:

- The Minister becoming the Responsible Authority for school applications,
- Concurrent reforms to the planning scheme, and
- An appropriate threshold of application types and resourcing.

We also request that schools be consulted on any draft reforms, prior to their implementation.



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2. NON-GOVERNMENT SCHOOLS

Non-government schools make up more than 30% of schools in Victoria. Along with the 1500 government schools, Victoria has almost 500 Catholic schools and over 200 independent schools (www.liveinmelbourne.vic.gov.au). According to Independent Schools Victoria (ISV) there are 360 independent school campuses in Victoria, and Catholic schools educate *about 207,000 students within Victoria (2015 census)* according to the Catholic Education Commission Victoria (CECV).

Unlike government schools which are not regulated by the planning system in Victoria, independent and Catholic schools are subject to the Victorian Planning Scheme.

Education is valued in the planning system and supported in State policy, as follows:

- *Plan Melbourne* acknowledges that strong communities need to be able to easily access education, the role that education plays in stimulating the economy, and the importance of planning for education within activity centres, innovation clusters and 20-minute neighbourhoods.
- State policy supports education through:
 - *Clause 11* - supports the location of new education facilities that attract users from large geographic areas, either in or on the edge of Metropolitan Activity Centres or Major Activity Centres, and with good public transport. Policy also encourages the location of new small-scale education, health and community facilities, that meet local needs, in or around Neighbourhood Activity Centres.
 - *Clause 17.01-1S* – ensuring that we are diversifying our economies through providing different services, such as education. We acknowledge that schools have a supporting role in economic growth.
 - *Clause 19* – aims to integrate education within local and regional communities.

Schools, including non-government schools, are a core part of local communities. In our experience, up to 80-90% of students attending independent schools come from the local municipality. The school community extends beyond current students to former students to remain involved with their school. Many students have a family history at the school going back generations.

The planning can be challenging for schools and projects are often led by school principals or teachers, rather than property industry professionals. Independent Schools do not have a governing body that controls campus development. ISV support schools and provide information, but independent schools undertake the planning, including growth forecasting and master planning, themselves. This is different to Catholic Schools where the CECV play a greater role in planning and funding school development.

Planning needs to facilitate development that allows schools to focus on education. Schools have different timing requirements to other developments including the need to undertake more disruptive construction during school holidays.

Planning therefore must facilitate development for schools, and avoid delays, costs and uncertainty.

Planning and designing education facilities is a specialist area and schools often engage specialist architects and education consultants to create innovative learning spaces for the future. It is a constantly changing and evolving pedagogical area due to technology, student safety, smaller class sizes and a wider range of specialist subject area. Expertise in this area is critical to understanding how schools work and for campuses to continue to facilitate excellence in education. We would be happy to arrange a visit or meeting with some schools should this be of assistance.

3. CURRENT CHALLENGES

3.1. TIMING

The key issue facing schools is time delays through the Council planning process. Our recent experience has found the following issues tend to delay planning approvals:

- Resourcing issues at Councils, including staff changes through the course of one planning application. For example, at Camberwell Grammar we recently gave a third Council planner a tour of the school, so they could understand the proposal. Scotch College has had a similar recent experience.
- Delays caused by taking a conservative approach to advertising – e.g. advertising anything that is not specifically exempt, such as fences, sheds and tree removal.
- Administration delays from advertising applications (can take weeks for Council to prepare notice).
- Reviewing objections and holding consultation meetings with neighbours. Topics discussed at these meetings often have little to do with the planning application at hand and are more about the school history or cars parked across driveways, which are not planning matters.
- Delays from internal Council referral departments, for example traffic, arborist and urban design.
- Delays waiting for responses from external referral authorities, such as Melbourne Water.
- Delays due to applications being considered at Council meetings, and not under officer delegation.
- Third party appeals to VCAT. In our experience, schools and Councils usually work well together to reach an agreeable planning outcome. However, in many cases, neighbours take schools to VCAT over relatively minor matters.
- Councils continuing to make decisions (e.g. Section 173 agreement student caps at Boroondara) that are consistently unsuccessful at VCAT.

School projects are usually programmed around the school holidays and unexpected delays impact school operations and disrupt student learning.

When time frames are known in advance, schools can plan around the school curriculum to limit disruption to classes and school activities. However, when delays are unexpected it causes significant disruption to school operations.

3.2. USING NEW SITES

The purchasing of additional land surrounding or adjoining existing schools is common practice. However, obtaining planning permission to use these sites for education purposes is often contentious. Schools face opposition from Councils and communities about 'institutional creep' into residential areas. This ignores the fact that schools are part of our residential fabric and make a significant contribution to the local community.

Existing houses can often be refurbished for use by schools, such as music rooms, staff administration and small study rooms. House can be retrofitted to comply with accessibility requirements, which are already exempt in the planning scheme where Clause 62.2-2 includes *Disability access and disability facilities associated with an education centre (not including a lift external to a building)*.

In many cases, existing houses are used by schools with no changes to school operation or access arrangements, including parking. Therefore, amenity impacts are limited.

The time it takes for such approvals restricts and slows down the ability for schools to accommodate growth.

3.3. RESTRICTIONS ON GROWTH

Campus growth, either through consolidation of existing facilities or acquisition of additional land, is a key issue for many schools. They face opposition from Councils and neighbours about car parking and traffic, particularly at school drop off and pick up times.

School growth depends on many factors, including population growth, and planning permits should not restrict student numbers. Car parking requirements in the planning scheme (Clause 52.06) are linked to staff numbers, so there can be a legitimate reason to restrict staff numbers to address car parking issues. However, there is no planning reason to cap student numbers.

In response to these issues, some Councils, particularly in inner city areas, attempt to limit school growth through capping student and staff numbers. For example, Boroondara Council imposes Section 173 agreements specifying maximum students on campus. Other Councils do this through permit conditions. Such conditions are successfully removed at VCAT, however it is time consuming and costly for schools to fight this. Further, many schools value their relationship with Council and don't wish to be adversarial. Therefore, school capacity is often unduly constrained.

3.4. SHARING FACILITIES

Non-government schools have some of the best facilities in the State. Large sports centres, halls, performing arts centres, theatres, function rooms and sports fields are common at many schools.

Many schools wish to share facilities with their local community. In some cases, schools are approached by the local Council recreation department only to be told that the Council planning department will not support community use.

Community use is seen as a separate use to an education facility, requiring additional planning approval. This results in underutilisation of existing infrastructure where facilities that could be used by the community are vacant outside of school hours, and during school holidays.

3.5. NEIGHBOURS INVOLVEMENT

Schools often undertake consultation with their surrounding residential community outside of the planning process. They are part of the community and formal consultation should reflect this.

Appeals by objectors to VCAT cause delays and cost both Councils and schools money. While consultation on issues around neighbourhood character and heritage is important, many objections are made about noise from school children playing and traffic during drop off and pick up times. In many cases, the school has been established for over a hundred years.

The planning system does not reflect the importance of education over minor inconveniences such as additional traffic for half an hour or so in the morning and afternoon. Removing third party rights for use and car parking could address this.

3.6. FOCUS ON LOCALISED ISSUES

In many cases schools have been operating for over 100 years and when residents move into the area they complain about school traffic and playground noise. Like the music venues in the inner city, there is a reverse amenity issue. The issues are usually around traffic and parking during drop off and pick up times which is for 30 to 60 minutes a day.

Schools serve the local community, most having a large percentage of students from the surrounding suburbs and municipality. While traffic and parking issues do occur, this is the case at government schools also, which are not subject to the planning process.

Current planning controls do not reflect the importance of schools or the many benefits schools bring to a community. A state government approach may help to address this.

3.7. USE OF MASTER PLANS

Some Councils apply a Development Plan Overlay (DPO) or Incorporated Plan Overlay (IPO) to require master plans (also known as development plans) for schools and other institutional uses.

In our experience, although the intention to Master Plan a school site is sound, in practice it is inefficient.

The DPO is only effective when schools have immediate plans to implement major projects. Usually with a program of works in the coming 3-5 years. The process avoids advertising of each project provided it is 'generally in accordance' with the master plan. Such permit applications are usually processed relatively quickly (3-6 months).

However, the reality is that schools need to be more agile and responsive to pedagogical needs. Whether it is a new principal (usually on a 5-year cycle), new school property board, new technology, or new subject area, demands and spaces for buildings change. Therefore, by the time a master plan is approved (usually 12-18 months), pedagogical requirements have changed and amendments to development plans are required.

The IPO does not work well because it requires a planning scheme amendment each time a master plan is prepared, proving to be laborious and costly for all stakeholders. Based on this we do not recommend using the DPO or IPO.

In our experience, most schools will undertake an internal master planning process themselves, prior to going through the statutory approval process. This includes extensive consultation with their school community. The master plans are then used as flexible documents and projects are undertaken based on changing school priorities and as funding becomes available.

3.8. UPGRADING FACILITIES

Education is constantly evolving and education spaces and buildings need to change to keep up. Technology, smaller class sizes and changes in curriculum are just some things that influence school design and spatial needs.

Internal spaces need to be flexible to meet a range of teaching, learning and recreation spaces. This is a challenge for schools that require planning approval to upgrade facilities. This includes heritage buildings which are often adapted for school use.

Schools report frustration with Councils not understanding the spatial requirements of school buildings. Councils tend to apply built form requirements in a similar manner to residential buildings. For example, applying setback requirements without considering the internal impact on learning spaces or student movements within the building.

To overcome this, policy that supports a different built form outcome for education buildings (similar to Clause 16.01-7 for aged care facilities) is needed.

4. LESSONS FROM OTHER STATES

Urbis' experience in Education planning, nationally, gives us a unique insight into the positives and negatives of State Government involvement in school planning and development.

4.1. NSW

Urbis experience in education planning in NSW highlights some fundamental issues with the State's role in assessments and timeframes. We can learn from the current systems failings and look to implement some of the positive outcomes in shaping Victoria's new education planning processes.

4.1.1. Legislative differentiation between Responsible Authorities

NSW legislation mandates that planning for government and non-government schools follow the same process and have the same mechanisms.

The State Department of Planning's involvement in education planning is triggered by the following:

- The development of a new school, or
- Alterations and additions to an existing school, with a value of over \$20million

Previously, legislation mandated a trigger of \$30million for any kind of project (new or existing school development). The Department of Education lobbied for this to be lowered to \$20million with the intention that the Department of Planning would facilitate a fast-tracked outcome in response to rising population education needs.

Projects of less than \$20million are determined by:

- Local Councils, or
- Department of Education, where minor works are eligible for a self-assessment process (complying projects, as below), or
- Building certifier, for certain fully complying, minor projects (with no complicating factors, such as heritage, flooding, etc)

4.1.2. Experience

Having the State Department of Planning the Responsible Authority for major projects (in excess of \$20million) was intended to result in faster outcomes. The reality is that the outcomes are slower. Typically, a Development Approval (DA) will take:

- Six to nine months through Council
- Ten to twelve months through State Department of Planning

Dissatisfaction with these timeframes is well known and we understand that the Department of Education may be lobbying to mandate timeframes so that major projects are not disadvantaged.

It is Urbis' experience that due to these timeframe disadvantages, we will recommend that clients lodge multiple applications of less than \$20million portions, where possible.

4.1.3. Timing and assessment factors at State level

The timing delays at State level are understood to result from a resourcing and administrative issues.

Like DELWP, whilst the State Department of Planning is the Responsible Authority, they rely on various other authorities and agencies, including Council, for all technical assessments outside of planning policy (such as traffic, etc.).

The State Department's involvement does not preclude third party notification. Under NSW legislation, the State will put the application on public exhibition, which includes to the community, Council, and other agencies such as Heritage, Water or Road Authorities, as required.

All public submissions are considered and if significant, the State will direct the applicant to resolve any issues.

4.1.4. Findings

The NSW system implements a process which can be seen to penalise major education development, for the following reasons:

- Third parties can still weigh in on applications
- The reliance by the State Department on Councils and other agencies for technical assessments elongates the process

To implement a similar system would have the opposite effect to that intended, in Victoria.

Suggestions we can adopt include:

- Fast track processes could be enhanced beyond our current VicSmart process, for minor works, by reviewing NSW fast-track mechanisms
- Mandated timing so that major projects are not penalised
- Additional technical resources within the State Planning Department

4.2. QUEENSLAND

By contrast, Urbis experience in Queensland has found substantial benefits in the State's role in education planning. Queensland has undergone planning legislative change in the last 18 months, having recognised that population growth and the associated demand for education facilities necessitates a fast-tracked mechanism.

4.2.1. Legislative differentiation between Responsible Authorities

The Queensland *Planning Act 2016* incorporates the concept of an "infrastructure designation". A request for an "infrastructure designation" (Ministerial ID) can be made by a public sector entity, a non-public sector entity, or a local government, and can be made, amended, extended or repealed by the Planning Minister. These are therefore not limited to education, and could apply to a library, for example, or another community use.

Under current legislation, any infrastructure under a designation will be accepted with no further development approvals required.

Until recently, only government schools could make the most of a Ministerial ID. However, changes in the last 18 months have allowed non-government schools to also apply for Ministerial ID.

4.2.2. Timing and assessment factors at State level

Like in NSW or Victoria, a standard town planning application or development approval may take 6 to 12 months. Previously, this was the only option available for non-government schools on a project-by-project basis.

A request for a Ministerial ID has a **four** month approval timeframe. The State has a dedicated "infrastructure designation" team.

The technical assessment is limited to a first principles assessment, and detailed assessment against local policies is not required. This includes matters such as traffic, sustainability, etc. Therefore, unlike NSW, there is no specific need for an outsourcing of technical assessments to other authorities.

For a site complicated by issues such as heritage or flooding, supporting assessment is prepared by the applicant, and consultation is usually held with other relevant authorities. Schools are encouraged to talk to Local Government and understand the key issues. However, they do not need to agree on a position or outcome.

Public consultation is required but is focused. Importantly, there are no third-party appeal rights.

4.2.3. Findings

The Queensland process applies substantial benefits by exempting development which has undergone “infrastructure designation” approval via the State. The Ministerial ID process is substantially fast-tracked, taking approximately four months.

The reduction of planning permit requirements, a designated approval team and removal of third-party appeal rights significantly reduces timeframes.

5. SUBMISSION TO EDUCATION REFORMS

We understand the Minister may become the Responsible Authority for some education applications. We support this change provided it is supported by planning scheme changes, mandated timeframes, and applied to an appropriate scale of development.

We are concerned that having two levels of government involved may delay the planning process. For example, our experience with DELWP and the City of Melbourne when the Minister is the Responsible Authority for large application in the CBD, is that delays are often caused waiting for comments from internal Council departments, such as traffic.

Further, we stress that appropriate resources must be allocated to DELWP to ensure it is a faster process than the current experience. Urbis is currently sourcing data from Councils about the number and type of planning applications in the last year. We will provide this to DELWP shortly.

To be effective, the change of Responsible Authority must be accompanied by changes to the planning scheme. This will reduce delays for schools and reduce workload for Councils and State Government.

We offer the following suggestions to streamline education approvals:

- Reduce planning permit requirements, including consideration of a particular provision or zone exemptions from planning permits, or exemptions from notice, and better use of VicSmart provisions.
- Consideration of the type of applications where the Minister is the Responsible Authority.
- Mandate a time frame for education applications.
- Undertake consultation with schools prior to implementing changes.

Each of these suggestions is discussed in more detail below.

5.1. REDUCE PLANNING PERMIT REQUIREMENTS

5.1.1. Apply a special use zone or particular provision for schools

To alleviate the burden on Councils and schools processing planning applications, the special use zone could be applied.

This is used in some areas in Stonnington, however it is accompanied by an Incorporated Plan Overlay which requires a planning scheme amendment for a master plan. Therefore, the application of the zone is not effective.

The benefits of the application of this zone would remove the requirement for planning applications for use and development associated with education. The zone schedule could be drafted in a way to allow community uses. Other issues, such as flooding and heritage would continue to be considered under the relevant overlay.

The limitations are that a planning scheme amendment would be required for each new school or school expansion, and the zones are unlikely to keep up with land acquisitions. A fast track process for planning scheme amendment would be required to make this work.

Alternatively, the application of a new Particular Provision for Education Facilities (in much the same format as the new Clause 53.17 Residential Aged Care Facility), coupled with suggestions outlined in Section 5.1.2 of this report, could provide greater certainty of outcome for schools.

The use of a particular provision rather than a zone is likely to be more practical as it does not require planning scheme amendments to keep up with new sites or campus expansions.

5.1.2. Use of existing buildings

Another common challenge is use of existing houses that are in school ownership. Schools need to expand and often will purchase surrounding land over time to allow for future population demands of the school and local students.

A solution to this is to include the use of existing buildings for education as a Section 1 (subject to conditions) use. We suggest the following be added to the Neighbourhood Residential, General Residential and Residential Growth Zones:

Section 1 – Permit not required

Use	Condition
Education Centre	<p>Must be located in an existing building;</p> <p>Must adjoin land already used as an education centre;</p> <p>Must not result in an increase of staff numbers at the new site or existing education centre or campus; and</p> <p>Must either meet the requirements of Clause 52.06-5; or not result in any changes to operation conditions, including vehicle or pedestrian access to the existing education facility</p>

5.1.3. Use of school facilities by community groups

School have some fantastic facilities including large performing arts spaces, function centres and sporting facilities. Many of these facilities are successfully shared with community groups, other schools and sporting organisations.

There is a community need for such facilities, including performance spaces, hiring sporting courts and function spaces, particularly in areas where Councils do not have land or facilities available. Schools are more willing to share their facilities where it can be accommodated outside of the school curriculum and safety and campus security issues can be suitably addressed. However, schools are often discouraged or held up by the planning process. Councils view this as a separate use subject to permit and car parking requirements. These applications often attract objections about parking and traffic and use of schools outside of traditional school hours.

We see an opportunity for the State Government to take a holistic view on this and allow sharing of facilities. We look to the recently opened South Melbourne Primary School or Richmond High School as examples where community use of government school facilities has been embraced. This is in line with Plan Melbourne and creating suburbs that share resources and have accesses to local facilities.

This could be facilitated by:

- Inserting a direction in State policy about sharing of school facilities.
- Exempting planning permits for community use of existing facilities from third party notice – this would allow decision makers an opportunity to consider traffic and acoustic matters.
- The Minister calling in these types of applications.

5.1.4. Utilise VicSmart to Fast track simple applications

A common issue raised by schools is the delays caused by advertising applications to the community where works are minor and do not impact the community. We see straightforward solutions to address this issue through the existing VicSmart provisions.

VicSmart applications include:

- *Construct a building or construct or carry out works for a carport, garage, pergola, verandah, deck, shed or similar structure*
- *‘Construct a building or construct or carry out works for a rainwater tank*

However, the criteria specify that:

- *Buildings and works must be associated with a dwelling.*

This should be changed to allow the same works at schools to be considered under VicSmart.

The criteria should be amended to include education centre as follows:

- *Works must be associated with a dwelling or education centre*

Some recent application that this would assist with include applications for:

- Storage sheds at Camberwell Grammar School
- Spectator seating at Trinity Grammar School, Bulleen Campus
- Ramps at Carey Grammar School, Kew Campus
- Deck at Strathcona Baptist Girls' Grammar School, Canterbury Main campus

Urbis would be happy to provide a draft mark up of planning scheme clauses to assist the Department to implement these changes.

5.1.5. Exemptions from Planning Permit for buildings and works

One of the issues faced by schools is delays for uncontentious buildings and works. Councils often take a conservative approach and advertise applications unless there is a specific exemption. These applications often do not attract objections but are caught up in planning for 6 to 12 months.

The following additions to the exemptions section in Clause 62.02-2 (Building and works not requiring a permit unless specifically required by the planning scheme) would assist to alleviate this:

Clause 62.02-2 Buildings and works not requiring a permit unless specifically required by the planning scheme

Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to:

- *Buildings and works associated with an education centre where:*
 - *The building or works are single storey with a height of 6m or less and are located at least 15m from an adjoining residential property*
 - or*
 - *The buildings and works are single storey with a height of 6m or less and fully comply with ResCode Standards A10, A11, A12, A13, A14 and A15*
 - *A fence with a height of up to 1.5m*
 - *A fence with a height of up to 2m where the land adjoins a Road Zone*

Use of this clause allows the permit requirements to be inserted in overlays where needed.

As an alternative, less preferred approach, we suggest that the above be exempt from advertising in the Neighbourhood Residential Zone, General Residential Zone and Residential Growth Zone.

5.2. MINISTER INVOLVEMENT IN SIGNIFICANT PROJECTS

From our experience in NSW and Queensland, we understand how State Government intervention can facilitate positive education outcomes, provided it is accompanied by statutory changes and appropriately resources.

We see the following opportunities for the Minister to be the Responsible Authority:

- Use of new sites, including expansion of existing schools
- Growth of student numbers at existing schools
- New buildings, where they are associated with school growth or improving or upgrading facilities.
- New facilities, where they can be shared with the community
- Shared use of facilities

5.3. GUARANTEED TIMEFRAME FOR LARGE PROJECTS

Schools need to program construction works around the school calendar. The school holidays, particularly over the extended summer break (6-8 weeks) provides an excellent opportunity to limit construction impacts on school operations.

Feedback from the schools we work with is that it is not only the time it takes for a planning decision, but the uncertainty of the decision and timing that causes issues. In taking over the applications, a guaranteed time frame, such as 6 months from lodgement to decision is suggested. To make this work, third party appeal rights should be removed.

5.4. CONSULTATION

We welcome the State Government's interest and intent around education planning reforms. To ensure that non-government schools from the Catholic, Independent and other sectors are considered, consultation should be undertaken.

We request that the draft changes are circulated to schools, or at least the relevant school bodies, for comment, prior to gazettal.

6. CONCLUSION

Schools are an important part of our communities, complementing our residential population and activity centres. To improve the current planning system for school and facilitate population growth we recommend:

- Planning permit requirements for schools be reduced
- Existing fast track processes, such as VicSmart, be better utilised to reduce timeframes for school planning applications
- A particular provision be developed for schools to recognise the contribution schools make to the community and their specific built form and use requirements
- The Minister become the Responsible Authority for schools, subject to the above changes and a mandated timeframe
- Schools be consulted on the draft changes prior to their implementation

We trust our submission has been helpful to improve the Victorian planning system for schools and we welcome the opportunity to discuss further.

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BRISBANE

Level 7, 123 Albert Street
Brisbane QLD 4000
Australia
T +61 7 3007 3800

MELBOURNE

Level 12, 120 Collins Street
Melbourne VIC 3000
Australia
T +61 3 8663 4888

PERTH

Level 14, The Quadrant
1 William Street
Perth WA 6000
Australia
T +61 8 9346 0500

SYDNEY

Level 23, Darling Park Tower 2
201 Sussex Street
Sydney NSW 2000
Australia
T +61 2 8233 9900