

Building newsflash

Building the Education Revolution program/planning scheme exemptions

Purpose

To inform local governments and building certifiers of an amendment to the state's planning regulations exempting school buildings funded under the Nation Building—Economic Stimulus Plan from assessment under local government planning schemes.

Legislation

- *Integrated Planning Act 1997*
- Integrated Planning Amendment Regulation (No.1) 2009
- *Building Act 1975*
- Building Code of Australia
- Queensland Development Code

Background

The federal government's Building the Education Revolution (BER) program will see \$14.7 billion spent over three years on new and upgraded infrastructure and infrastructure maintenance in Australian schools. It is a key part of the government's \$42 billion Nation Building and Jobs Plan to counteract the global financial crisis by supporting jobs and investing in future long-term economic growth.

Queensland is in line to receive billions of dollars to build libraries, multi-purpose halls, classrooms, science laboratories and language centres in hundreds of state and non-state primary and secondary schools. However, the federal funding is contingent on the building works being fast-tracked, to ensure jobs are created quickly to help insulate Australia from the global financial crisis.

The federal government requires schools to commence projects within approximately six weeks of submitting their funding application. Commencement is defined as 'post-design work that incurs costs' and this is typically some form of construction work. This six-week time frame may not be adequate for councils to decide all development applications.

By exempting these projects from development assessment against local government planning schemes under the Integrated Planning Amendment Regulation (No.1) 2009 construction is generally expected to begin sooner than would otherwise be the case. The purposes of the amendment are to ensure Queensland schools:

- do not miss the federal government's deadlines
- can compete on an equitable basis
- do not miss out on funding.



The federal government has appointed certain authorities to oversee and submit funding applications. The Department of Public Works (DPW) is administering the state-school applications and the two Block Grant Authorities (BGA)—the Queensland Catholic Education Commission and Independent Schools of Queensland—are administering the non-state-school applications.

Issues

Amendment to the Integrated Planning Regulation 1998 (IPR), schedule 11

The IPR, schedule 11 identifies development for community infrastructure that is exempt from assessment against a local government planning scheme. The amendments to schedule 11 now identify development for school building projects funded under the BER-provided program as community infrastructure that is exempt, if certain criteria are met.

These criteria are designed to ensure the school projects do not reduce the amenity of the neighbourhood, increase traffic congestion, nor harm important vegetation or heritage values. The criteria also cover a number of state interests normally triggered when development applications are made to councils.

Criteria for planning scheme exemption under IPR, schedule 11

To be exempt, development must meet the following criteria covering:

- **height limits**—a building or covered outdoor area must not be taller than 15 m or higher than the school's tallest existing building
- **distances from side and front boundaries**—taking into account the facility's size and proximity to neighbouring houses
- **floodlights**—to comply with Australian design standards
- **existing campus location**—new buildings must be wholly located on the school's existing campus
- **vehicle access**—no new or extended vehicle access other than access for disabled people and emergency and service vehicles
- **parking**—no reduction in the number of dedicated on-site parking spaces
- **local issues**—projects that could impact on identified protected vegetation or local heritage, or be affected by past underground mining, must not be opposed by the relevant council.

The criteria that address matters of state interest relate to coastal management districts, airports, acid sulphate soils, vegetation clearing, protection of koala habitat (South East Queensland), and area management advice for unexploded ordnances.

In addition, before starting the development, the entity representing the school must give the relevant local government written notice of the proposed development. All the criteria stated in IPR, schedule 11 are set out in the attached *BER School Project—Exemption from Planning Scheme Assessment Checklist*.

What if the criteria are not met?

If any of the criteria are not met, including if the local government advises the school it does not agree to the exemption (in relation to identified protected vegetation, or local cultural heritage, or past underground mining), the exemption will not apply.

However, the Minister for Infrastructure and Planning—if requested by the relevant school—will consider whether the development could be specifically listed in the regulation for exemption.



Before making a decision, the minister would seek input from the relevant local government to help resolve issues in a way that avoids any significant adverse impacts on the local community. Conditions could be imposed on the development to ensure it is appropriate.

Role of the building certifier

The building certifier, either private or local government, will be responsible for assessing BER school projects under the *Building Act 1975 (BA)* in the same manner as required for all other buildings. This includes assessing the building against the building assessment provisions in section 30 of the BA, including the Queensland Development Code (QDC) and the Building Code of Australia.

The BA also permits local governments to include certain building-related matters in their planning schemes. These include designation of land liable to flooding for floor level heights of habitable rooms and designation of bushfire prone areas. These provisions are not affected by the BER exemption and they continue to apply, despite being contained in the planning scheme. Other state laws governing vegetation clearing and Queensland heritage buildings continue to apply if relevant to a proposed building application.

Section 83 of the BA contains restrictions on a private certifier granting a building development approval. This section applies where there are necessary approvals under the Integrated Planning Act 1997 still to be obtained—such as approvals under a planning scheme or other development approvals under state legislation. In assessing BER school project applications building certifiers must check (and record) that the building work either meets the criteria in IPR, schedule 11 or that the specific project is mentioned in the regulation and that it meets any required conditions, before granting the building development approval. This assessment procedure is in lieu of the assessment under the planning scheme. Also, the building certifier must be satisfied the project does not require any other state development approvals.

While not formally required for inclusion with IDAS development application forms, each school will submit or attach to the building application a completed BER School Project—Exemption from Planning Scheme Assessment Checklist to facilitate the approval process. The checklist will state the proposed development either complies with all the criteria mentioned in the IPR, schedule 11 or that the project is mentioned specifically in the regulation and meets any required conditions.

Where a certifier is assessing BER school project work on behalf of the state government, the work is self assessable for the crown. However, the building work is required to comply with the BA and it is recommended that private certifiers issue a certificate of classification as they would in the normal course of finalising occupation of a privately owned public building.

More information

www.dip.qld.gov.au/BER-schools-exemption

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