# New South Wales Vice-Chancellors' Committee

**Committee Convenor** 

Committee Executive Officer

Frederick G Hilmer
President & Vice-Chancellor
University of New South Wales
Kensington Campus
SYDNEY NSW 2052
Tel: (02) 9385 2855
Fax: (02) 9385 1949

email: vice-chancellor@unsw.edu.au

Donna West EF105 The University of Newcastle CALLAGHAN NSW 2308 Tel: (02) 4921 6061 Fax: (02) 4921 7062 Mob: 0439 297 490

email: dwest-nswvcc@newcastle.edu.au

## 1 November 2011

Planning Review Panel
Department of Planning and Infrastructure
GPO Box 39
Sydney
NSW 2001

Email: review@planningreview.nsw.gov.au

Dear Members of the Panel

#### SUBMISSION TO THE REVIEW OF THE NEW SOUTH WALES PLANNING SYSTEM

At the meeting of the New South Wales Vice-Chancellors' Committee (NSWVCC) held on 1 November 2011, a submission to the review of the planning system in NSW was endorsed. A copy of that submission is attached for your consideration.

It was also agreed at the meeting that individual universities may wish to respond to the review separately.

The NSWVCC considered that there were several issues under the current planning system that broadly affected all universities in NSW. In summary these were:

- Broadening and standardising the definition of "educational establishment" to include universities and their ancillary uses;
- Clarifying the process of "Crown" development applications as they apply to universities:
- Broadening and standardising exempt and complying provisions for universities;
- Clarifying the circumstances under which universities should be excluded from the payment of development contributions;
- Recognising that student housing is a type of affordable housing.

#### **NSWVCC MEMBERS:**

Recent statements by the Premier stress the need to rebuild the NSW economy. Of the States, NSW has the largest economy and contributes to about one third of Australia's GNP. However, NSW's current planning system is not as clear, efficient, certain, and therefore as competitive with the systems that our key competitors operate under in Australia and internationally.

The universities in NSW contribute to the State's economy and broader society through their core activities of education of domestic students and conducting research. They provide a strong pool of skilled professionals for the workforce, and engage in collaborative partnerships with government departments and industry which are aimed at translating research into practice, and developing existing and new industries.

It is also noted that education services is Australia's largest services export industry and in NSW it is the second largest export earner after coal. In 2010, income generated in NSW by education services amounted to \$6.5 billion or 36.7% of export income from all onshore students. As at May 2010, there were some 170,000 international student enrolments in the State representing 38% of total Australian enrolments in this category, and the largest proportion of international students enrolled in the tertiary education sector. In 2007-08, expenditure by international students was \$13.7 billion with \$12.3 billion in value-added income to capital owners and labour from every dollar of expenditure. NSW accrued the largest share of this value-add with \$4.8 billion. (Sources: Australian Education International, NSW Department of Education and Communities, Access Economics).

In addition to the strong contribution to the current and future economy of the State, universities are also charitable, not-for-profit, Crown entities, established under State Acts of Parliament and are unique in their blend of purpose, encapsulating education, research, student housing and welfare activities.

The government's aim of aligning the tertiary education sector with the State's priorities and rebuilding the economy needs a more efficient, simple and transparent planning system. One that recognises the complexity of the university environment, encourages universities to invest and grow in teaching and research, provide more modern student housing, sport and recreation facilities, and one that allows universities to be more innovative in order to compete in the international marketplace.

The Committee hopes that this submission will be favourably considered by the Panel.

Yours sincerely
Fred Allier

Frederick G Hilmer

Convenor, NSW Vice-Chancellors' Committee

cc NSWVCC members

# New South Wales Vice-Chancellors' Committee

#### SUBMISSION TO THE REVIEW OF THE NEW SOUTH WALES PLANNING SYSTEM

## **Definition of Educational Establishment**

The definition of 'educational establishment' should be broadened and standardised to include universities and their ancillary uses. A university is not specifically defined in the current planning system.

Clarifying the definition of a university within the planning system and recognising its unique and complex planning needs will allow strategic and in some cases State significant infrastructure a better level of certainty and will reduce regulatory burdens in both administration and cost. This will allow the sector to transform itself to meet State targets for increased access for tertiary students and to better align the tertiary education sector with the State's priorities for economic and social development.

It is noted that in the Infrastructure SEPP Discussion Paper of 2010 a definition of university was suggested. However, the proposed definition limited the range of ancillary uses. Beyond the notion of 'formal education' as stated in the Standard Instrument template, the nature of today's university campus is such that additional and ancillary uses are an integral part of campus life and the student experience. These include, but are not limited to:

- Administration and IT data centres;
- Industrial and business partnerships and joint ventures;
- Accommodation for students, staff and visitors;
- Sports and recreation facilities;
- Performance and conference venues;
- Shops and other retail such as banks, post office, medical centres;
- Child care centres;
- Parking facilities.

Rather than a narrow definition of educational establishment or university, the definitions should be broadened to allow a wider range of university-related activities and standardised across all planning instruments, policies and guidelines.

## **Crown Development Applications**

The process of determining Crown development applications on behalf of universities needs to be clarified.

For example, under the new State and Regional Development SEPP it is unclear what role the Department or the Minister would play in determining development applications for university student housing, medical centres, a museum or a recreational facility with a CIV of more than \$30 million, not knowing if these activities would be considered ancillary to an educational establishment.

The State and Regional Development SEPP could also provide that certain types of development by educational establishments with a CIV of less than \$30 million do not require development consent.

More critically, experience with local Councils has demonstrated that there is an inconsistent understanding and application of Crown development as it relates to universities. Under existing planning legislation, universities as Crown authorities have the opportunity to negotiate conditions of consent. Councils need to be reminded that such projects are not standard development applications, but in effect State government applications. Delays often occur due to a Council's desire to impose inappropriate or unnecessary conditions on university applications.

Local Councils, in consultation with universities should adopt procedures that:

- Utilise an agreed set of standard conditions of consent;
- Allow the applicant sufficient time to review draft conditions prior to completion of Council's report.

This would speed up the approval process and reduce the risk of projects running over budget due to commencement being unnecessarily delayed.

Ensuring the preservation of the status of universities as the 'Crown' for the purposes of development under current legislation and further, declared to be 'public authorities' for the purposes of the Act, will provide universities with greater certainty when it comes to the application of many provisions of the Infrastructure SEPP, particularly for the development of sites outside of the main campuses.

It would also be helpful if the Department issued a new set of Practice Notes that updated the application of Circular D6: Crown Development Applications and Conditions of Consent, with a particular reference to universities.

### **Exempt and Complying Provisions**

The exempt and complying provisions should be broadened and standardised as they apply to universities. The Infrastructure SEPP contains some exempt and complying provisions but they have limited application to universities.

For example, exempt development should be expanded to include services infrastructure if primarily underground. The upgrading of existing underground sewer, drainage, water, communications, gas and electrical services and the installation of new services infrastructure are routine, on-going activities at universities and have negligible or minimal visual impact when completed.

The complying development provisions of the SEPP should be expanded to include universities in the same way that schools and TAFEs are considered for complying development.

Proposals put forward in the Infrastructure SEPP Discussion Paper of 2010 to expand the complying development provisions to include universities, had the following limitations:

- Separate categories for teaching and research space are inappropriate for multipurpose university buildings;
- A maximum building height of 12 metres would represent an unnecessary constraint on large campuses, where buildings are well away from surrounding residential development;
- Restriction of activities "outside of school hours" is inappropriate for university campuses with a range of student, staff and visitor evening activities;

In addition, if universities were declared 'public authorities' for the purposes of the Act and the Infrastructure SEPP, university development could then be permitted under the SEPP as 'development without consent'.

Furthermore, the Exempt and Complying Codes SEPP excludes land on the same title as heritage items and heritage conservation areas. This makes no sense for university campuses on large land titles were such items or areas may be located within a small portion of the campus, thus quarantining the remainder of the campus from the application of exempt and complying provisions.

The scope of complying development certification impinges on the ability of universities to effect internal renovations to non-heritage buildings. The current process does not allow universities to respond quickly to changing business needs, is administratively burdensome, and does not add value.

Also, where a university undertakes a development that does not require consent, it should have the option of applying for Part 4A certificates, e.g., Construction Certificates. This would give a greater level of comfort to the community and the university, that the correct standards have been adopted.

Exempt and complying provisions should therefore be broadened to include appropriate provisions for universities and standardised across all planning instruments, policies and guidelines.

#### **Development Contributions**

Universities should be exempt from the payment of development contributions under s94 or s94A of the Act except in certain circumstances that need to be clarified.

The requirement for universities to pay development contributions is a major concern. Universities are not 'developers' in the usual sense of the word. They are not-for-profit public institutions, sourcing 40-50% of their funding from government. Their facilities and services provide substantial direct and indirect economic, social and recreational benefits to the State and local communities.

Development contributions as currently levied by local Councils or the Department are inconsistent in both application and the amount levied. This has a significant impact on university project budgets for the development of new teaching and research facilities, student housing and other support services. These facilities and services are needed to attract the best students and staff nationally and from overseas. In particular, there is an increased need to offer a 'course with accommodation' package priced to encourage international students to study in Australia. This is put at risk by levies applied to the development of low income, affordable university student housing.

University campuses provide a network of essential and support services and facilities to their students and staff, lessening the demand for those in the local area, not increasing the demand. Some Councils have adopted s94A contribution plans with fixed levies applying to a greater number of university development applications even where no increase in demand for facilities or services will occur and where there is no connection between the university and the proposed infrastructure.

Development contributions consume resources which should be devoted to the building of new facilities which attract quality students and staff and allow Australian universities to more actively and effectively compete in the international marketplace.

The levying of contributions on projects that are funded by external sources including Commonwealth Government Grants is simply diverting a portion of funds allocated for an educational purpose to local infrastructure without any direct relationship to the development.

Both the Department's Circular D6 of 1995 and the Development Contributions Practice Notes of 2005 make it clear that universities, both as an educational establishment and Crown development, should largely be exempt from contributions other than for drainage and for traffic management works at the development site's entrance. Unfortunately, little regard is paid to these documents when Councils formulate exemption policies in their contributions plans.

The tendency for consent authorities to 'double dip' is also considered inappropriate. In addition to the payment of development contributions, universities have also been required to provide public infrastructure as a condition of development consent. This includes:

- Undergrounding of overhead cables;
- Construction of new footpaths;
- Construction of new drainage;
- Provision of bus shelters.

It would seem a more reasonable position that all proposed infrastructure works in the public domain that are deemed relevant and necessary by Councils because of new

development, should be incorporated in the works schedule of a contributions plan and paid for from that plan, but not conditioned separately as an additional monetary payment or works contribution by the applicant.

The extent to which universities should be required to pay development contributions needs to be clarified. Consideration should be given to:

- The circumstances in which levies are exempted e.g. core university teaching and research facilities and ancillary uses as listed earlier above;
- The type of matters that may be covered by voluntary planning agreements e.g. public domain infrastructure as listed above;
- The circumstances in which levies may be required e.g. commercial/for-profit components of university developments, the provision of local drainage/stormwater infrastructure, appropriate traffic management facilities;

In those circumstances where it is considered appropriate that levies are required for university developments, then the process needs to be streamlined when a determination is required from the Minister or a regional panel pursuant to s89 of the current Act.

# **Student Housing as Affordable Housing**

University student housing should be considered a type of affordable housing and its development encouraged through planning legislation. The reasons are:

- It accommodates people who are on low incomes;
- It eases the financial burden of students from lower socio-economic backgrounds who would otherwise be unable to find suitable accommodation;
- It provides a diversity of housing and social mix within local areas;
- It requires a reduced rate of car parking when compared to conventional housing and therefore provides opportunities for increased use of public transport services;
- Students contribute to the local economy both as employees and consumers, generating increased revenue for local business and a greater variety of goods and services;

There are no provisions within the Infrastructure SEPP that promote or govern development of student housing and the Affordable Rental Housing SEPP excludes student housing as affordable housing under the guidelines and formulas used to define income and rental thresholds. It would be administratively difficult for universities to assess student incomes and to accurately determine rental market rates as most student housing is charged at nominal rates, being not-for-profit organisations.

The majority of student housing is constructed on university campuses, but these are excluded as affordable housing because the current zoning of campuses generally are within a special use zone, not a residential zone as allowed for in the Affordable Rental Housing SEPP.

Because student housing is not currently considered affordable housing, significant project costs are incurred by universities through the levying of development contributions.

Student housing should therefore be considered as an important ancillary use to universities and its development encouraged by including it in planning instruments, policies and guidelines as a type of affordable housing, free from development contributions.

It would appear to be a poor use of public funding for universities to receive substantial Commonwealth and/or State funding for a public good project, only to have part of that funding is eroded by the requirement to pay contributions to local government. The economic benefits of student accommodation and other university education and research developments are similar across the State. A State approach to such public good Crown development is therefore required.