

## DEVELOPMENT OF NON-GOVERNMENT SCHOOL SITES FOR AN ALTERNATIVE PURPOSE

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*This information sheet provides advice on one approach that can be taken by a Responsible Authority in determining whether land shown as a non-government school site in a Precinct Structure Plan can be used for an alternative purpose.*

### NON-GOVERNMENT SCHOOLS IN PRECINCT STRUCTURE PLANS

Sites for non-government schools are shown in Precinct Structure Plans where a clear case is made for the need for such a school and where there is a demonstrated commitment to establish a non-government school on the site. This process is open to all non-government school providers.

The Precinct Structure Plan's background report should include details of the strategic justification for the provision of a non-government school site and indicate which non-government school provider has provided the strategic justification.

Non-government schools are strongly encouraged to locate in the preferred sites shown in Precinct Structure Plans, but this will be dependent on commercial arrangements with landowners. Land acquisition remains the responsibility of the school provider.

It is not possible (or appropriate) to force land owners to hold sites for a non-government school indefinitely, but it is reasonable to expect them to hold it for a period of time relative to the pace of development in the area, and to take steps to negotiate with the non-government school provider that has strategically justified the need for the site. The Responsible Authority may offer land owners assistance in facilitating these negotiations. The Responsible Authority may also offer land owners assistance in suggesting or finding other school providers that may be interested in acquiring the site.

Where the Responsible Authority is satisfied that land shown as a non-government school site is unlikely to be used for a non-government school, that land may be used for an alternative purpose which is generally in accordance with the Precinct Structure Plan and consistent with the provisions of the applied zone.

### PLANNING PERMIT APPLICATION TO DEVELOP A NON-GOVERNMENT SCHOOL SITE FOR AN ALTERNATIVE PURPOSE

The trigger for the Responsible Authority to consider whether it is satisfied that a non-government school site is unlikely to be used for a non-government school will be the submission of a planning permit application to use or subdivide land, or to construct a building or construct or carry out works associated with an alternative use.

The Responsible Authority may encourage applicants to discuss their proposal with the Responsible Authority prior to submitting an application.

In determining whether the alternative use is generally in accordance with the Precinct Structure Plan, the Responsible Authority should give consideration to the designation of the land immediately surrounding the non-government school site on the Future Urban Structure in the Precinct Structure Plan and the provisions of the applied zone.

### INFORMATION TO BE SUPPLIED BY THE APPLICANT

If the planning permit application for an alternative use is made by a school provider, the applicant should reasonably demonstrate to the Responsible Authority that the school site is no longer strategically justified.

If the planning permit application for an alternative use is made by or on behalf of a property owner, the applicant should reasonably demonstrate to the Responsible Authority that the property owner has been unable to finalise a satisfactory land acquisition agreement with the relevant school provider, including providing evidence of attempted negotiations.

The applicant may also be required to reasonably demonstrate to the Responsible Authority that no other school provider is willing to acquire the site. The Responsible Authority may wish to provide applicants with advice regarding what the Responsible Authority considers to be an appropriate process for inviting expressions of interest from the school sector. The Responsible Authority may determine that negotiations with other school providers are not required if an alternative site has been acquired within the same area.

### NOTIFICATION OF THE APPLICATION

The Responsible Authority should consider that the grant of the permit may cause material detriment to the school provider that has strategically justified the need for the non-government school site, and notification should be given in accordance with Section 52 (d) of the Planning and Environment Act.

Where a non-government school site has been strategically justified for a Catholic school, the Responsible Authority should ensure that the Catholic Education Office Melbourne (CEOM) is aware that the Responsible Authority has received a planning permit application for an alternative use.

Where a non-government school site has been strategically justified by a non-government school provider other than the Catholic sector, the Responsible Authority should ensure that that non-government school provider is aware that the Responsible Authority has received a planning permit application for an alternative use.

## EXERCISE OF DISCRETION

To determine whether land shown as a non-government school site is likely to be used for a non-government school, the Responsible Authority should consider:

- What type of school was strategically justified when the Precinct Structure Plan was developed?  
*Note: This information should appear in the Precinct Structure Plan or the background report.*
- Has the relevant school provider indicated in writing that the site is no longer required?
- Has an alternative site been acquired by the provider?
- Has the property owner been unable to finalise a satisfactory land acquisition agreement with the relevant school provider?

*Note: In determining whether the land acquisition agreement is 'satisfactory', the Responsible Authority should give consideration to the value of the land, the price offered, and the payment terms.*

- Has the land owner attempted to find an alternative school provider to acquire the site? (For example, is there evidence of written communication with the school sector inviting expressions of interest to acquire the site?)
- Have negotiations with other school providers been attempted?

*Note: The Responsible Authority may determine that negotiations with other school providers are not required if an alternative site has been acquired within the same area.*

The Responsible Authority may determine to refuse the application for an alternative use if it determines that:

- development of the surrounding residential area has not commenced substantially and the application for an alternative use is premature.
- the school site is still strategically justified
- the land owner has not made a reasonable attempt to finalise a satisfactory land acquisition agreement with the relevant school provider
- no reasonable attempt has been made to find another school provider willing to acquire the site.

## APPEAL

If the Responsible Authority refuses the application for an alternative use, the applicant may appeal to VCAT for a review of the decision.

## DEVELOPMENT CONTRIBUTIONS

Where land is subdivided or developed for the purpose of a non-government school and the use of that land is subsequently for a purpose other than a non-government school, the owner of that land must pay to the Collecting Agency development contributions in accordance with the provisions of a Development Contributions Plan. The development infrastructure levy and where applicable, the community infrastructure levy must be paid within 28 days of the date of the commencement of the construction of any buildings or works for that alternative use.

## CONTACT THE GROWTH AREAS AUTHORITY FOR FURTHER INFORMATION

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