

# Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 169

made under the *Education (Capital Assistance) Act 1993*

## General Outline

### Short title

Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019

### Authorising law

Sections 16 and 19 of the *Education (Capital Assistance) Act 1993*

### Policy objectives and the reasons for them

The *Education (Capital Assistance) Act 1993* (the Act) and *Education (Capital Assistance) Regulation 2015* (the Regulation) provide a framework for the administration of State capital assistance for non-state schools. The Act establishes two Capital Assistance Authorities (CAAs) — the Queensland Catholic Capital Assistance Authority and Queensland Independent Schools Block Grant Authority— to administer grant funding on behalf of the Queensland Government. It also outlines the Minister for Education’s and the CAAs’ roles and responsibilities in relation to the provision and administration of capital assistance.

The Regulation prescribes the criteria a CAA must use for assessing applications for capital assistance under different funding schemes and the information that must be included in schools’ applications for funding. The CAA’s assess applications for capital funding against the prescribed criteria and provide a recommendation to the Minister, who then makes a final decision.

There are currently three capital assistance schemes funded by the Queensland Government:

- State Capital Assistance Scheme (SCAS): To provide, convert, refurbish and upgrade educational facilities or boarding accommodations.
- Capital Assistance Supplementary Scheme (CASS): To construct new schools and upgrade existing schools.
- External Infrastructure Subsidy Scheme (EIS): To meet external infrastructure costs, associated with local government approval requirements, of capital works projects.

Both SCAS and CASS are administered under the Capital Assistance Scheme Guideline, and have the same application process and assessment criteria. EIS has a separate guideline, application process and assessment criteria as prescribed in Schedule 1 of the Regulation. Schedule 1 specifies that only work or payments required by the local government in its approval of the project are eligible for EIS funding.

Under the *Planning Act 2016*, which came into force in July 2016, entities including non-state school governing bodies are able to apply to the Minister for Planning for a Ministerial Infrastructure Designation (MID), which identifies land for infrastructure purposes to facilitate efficient and cost-effective provision of the infrastructure. Once a site has an MID, no further development approvals are required for future development as long as the school complies with the conditions of the MID. While the MID process still requires community consultation and an assessment of environmental impacts, it is a streamlined process that avoids many of the development application requirements of local government.

Capital projects occurring under a MID do not require local government approval. The local government becomes one of the parties providing input to the process of creating an overarching environmental assessment report, but does not set specific requirements for external infrastructure.

If the Minister for Planning decides to grant the designation, the MID outlines the requirements that must be adhered to throughout the development of the school site, including associated infrastructure. However, as the MID is a State government approval, any external infrastructure costs incurred for development are ineligible for EIS funding due to the current scope of the criteria in the Regulation's schedule which only allows schools to apply for costs required by a local government and as part of development approved by local government.

The MID is designed to streamline approval processes. The limit on the ability for schools to apply for funding assistance for external infrastructure costs was an unintended consequence following Queensland Government's decision to enable non-state schools to use the MID process for infrastructure development. To resolve this issue, the Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019 (Amendment Regulation) expands the criteria by which EIS applications are assessed to include projects with an approval by a Minister or a Government entity (which includes distributor-retailers established under section 8 of the *South East Queensland Water (Distribution and Retail Restructuring) Act 2009*).

## **Achievement of policy objectives**

To achieve the objectives, the Amendment Regulation amends the Regulation to expand the criteria by which EIS applications are assessed. The criteria for EIS assessments will include assistance for work or payment required by Government entities, Ministers, or local government for the area in which the school is located, as part of an approval of a capital project at the school.

## **Consistency with policy objectives of authorising law**

Section 13 of the Act provides that the Minister may pay amounts to a CAA for the purpose of enabling the CAA to provide capital assistance. Sections 16 and 19 provide that CAA may assess and review applications made by an approved authority of a non-state school for capital assistance or reviews of capital assistance grants in accordance with criteria prescribed in a Regulation. Section 7 of the Regulation provides that the criteria for assessment under sections 16 and 19 are in Schedule 1.

## **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The amendments will enable non-State schools to apply and be assessed for EIS funding to meet external infrastructure costs associated with Government entity approval requirements of capital works projects. Without the amendment, they would be limited to applying for funding to meet external infrastructure costs associated with local government approvals. The amendment ensures that external infrastructure required as a consequence of approvals by other relevant entities, such as an approval by the State Minister for Planning as part of a MID, are also eligible for EIS funding.

## **Consistency with fundamental legislative principles**

The Regulation is consistent with fundamental legislative principles.

## **Consultation**

Consultation was undertaken with Independent Schools Queensland (ISQ) and the Queensland Catholic Education Commission (QCEC) on the amendments. ISQ and QCEC support the amendments.