

Dear Standing Committee on Environment and Public Affairs,

Thank you for the opportunity to make a written submission in support of the petition (No. 093). I would like it noted that several other petitions with hundreds of signatures against the developments on the Doubleview Primary School site have previously gone to Stirling Council

The petition requests that building works at the old Doubleview Primary School Site for the International School of WA (ISWA) be halted for several reasons. Whether or not the Legislative Council has the Authority to do that should not impact or delay the other three requested actions:

A) That the matter be referred to the Solicitor General to determine whether \$21.6 million of Public Money set aside for ISWA capital works, associated costs for relocation and establishment costs is authorised under the Schools Act 1999

Part 4 – Non-government schools States - registered non-government schools that operate on a not-for-profit basis may qualify for various forms of financial assistance from the State. This can include: per capita grant funding for recurrent operating costs, grants for eligible students with special education needs; and subsidised loans for capital works projects.

There does not appear to be any provisions, in this Act (WA), that authorises the Minister to make direct construction funding for non-government schools.

School Education Act 1999 (WA) Part 4 – Non-government schools, requires non-government schools to be registered and make various provisions about their operation and funding. Division 6 of Part 4 provide a basis for *loans* to registered non-government schools or school systems for capital works. Again does not appear to be any provisions that authorises the Minister to make direct construction funding. Section 216 provides the Powers of the Minister. Sec 216(2)(a) the Minister may – acquire, hold, manage, improve, develop and dispose of property or an interest in property. Sec 216(6) defines *dispose of*, as used in 216(2) to include – dispose of by way of lease. It may be argued that the power enumerated here gave the Minister the power to build and lease ISWA. However, in other parts of Section 216, a distinction is drawn between powers to deal with government and non-government school. No such distinction is raised in the law within Section 216(2)(a).

In *Smith and City of Wanneroo* [2008] WASAT 182 (12 August 2008) his honour Judge J Chaney (Deputy President) at 45, says “. . . an inference drawn from s 216 of the School Education Act. That section outlines the powers of the Minister. Section 216(2) empowers the Minister to acquire or hold an interest in property. That power is, however, limited to acquiring or holding property for the purpose of “furthering the best interests of students and educational programmes in government schools”.

The conclusion to be drawn by this learned Judge’s opinion is; the use of the DoE land for the construction of ISWA school looks be ultra-virus to the statutory powers.

The second deferral of the Development on the 4th December 2017 also led to the sunset clause with a date of 31/12/17 coming into effect. The situation of the build/relocation of ISWA due to a contract signed with a “build/relocation of purpose “(free up ISWA’s City Beach location for public High School)” and had now become “build/relocation for no purpose”. (as there is no plans now for the site currently occupied by ISWA at City Beach).

B) Whether the Department of Education(DoE) continues to be obliged to move ISWA from City Beach to Doubleview given the Non-Legally Binding Commercial Lease Terms—203 StBrigids Terrace Doubleview lapsed as out-of-time on 31 December 2017

The chief reason why the Department/Consultant Applicants didn’t get approval on the 04/12/2017 JDAP (The 4th JDAP meeting about the shared school site) is they were still presenting applications that the school ISWA is “designed to accommodate 350 students and 24 staff” even though it was pointed out in public submissions on previous one that only 24 staff with 26 classrooms, 2science rooms, 2art, music, drama, IT, library of course doesn’t add up. (24 staff and 34 learning rooms.)

This deferral (the second on Stage 2 - ISWA) should have been the wakeup call that something is seriously wrong with this development. The deferral also led to the sunset clause coming into effect where Education Department was no longer contractually obliged to go ahead.

It is also not likely that the intention of the ‘ACT’ is to allow the Minister/Education Department to build/relocate a non-government schools that are leasing from the government sites for no reason.

It should be noted initial approval of 'Stage 1' new Public Doubleview Primary School (2nd JDAP meeting on the shared development site) the WAPC agreed with the DoE that ISWA's plans weren't required at that point for the approval of the new Doubleview Primary. This was after that had been requested at the 1st JDAP meeting.

C) That a public inquiry to determine whether the proposed Doubleview facility and the current City Beach facilities are deemed to be "like for like facilities"?

It is stated that the new Facilities to be provided are to be Like-for-like. In which case any lay person would agree that if you are going to offer like-for-like facilities that would mean same number of classrooms, other rooms and the same student capacity. To provide anything different would not be like-for-like facilities and that is the situation here.

The Department of Education/Consultant Applicant claimed that the ISWA facility at Doubleview is "designed to accommodate 350 students" is absolutely false. This false statement "designed to accommodate 350 students" was put in four planning applications that went before Metro-North-West JDAP panel four times (including the final approval).

This is 350 is simply wrong and is backed up by

- Prior to the JDAP meetings, ISWA's current Principal stated on ABC radio, in a public forum at Scarborough Civic Centre and recorded in the print media that the school would have the same design capacity as a City Beach. 600 students.
- Back in 2013 when ISWA had 331 students they started a significant expansion program for their school because they were at capacity had a waiting list of 60+ students according to their Newsletters. The expansion involved double streaming of their school years from PP – Year 12 plus other works. (an additional 13 classrooms). Total accumulated capital cost was about \$3 million. (according to myschool website. 2013-2015 Accumulated Capital Expenditure.)
- Part of ISWA's City Beach campus expansion works included eight transportable classrooms. Those classrooms alone received planning approval for additional capacity of 208 students on the 27 September 2013 and were successfully completed. Overall the approval for ISWA at that point was granted was for 539 students. The planning application and traffic assessment showed they had expected to have 539 students by 17/18.
- ISWA also added further classrooms to their City Beach Campus after the transportables. It also stated in their Dec' 13 newsletter at the time – if all goes according to plan "student numbers will grow to 600" and similar is recorded in The West in Feb'14 with an interview with ISWA's Previous Principal.

Now everything didn't go according to plan as ISWA was one of the schools hardest hit by the mining downturn and student numbers collapsed. The Australian records that fact in April' 16 and specifically mentions ISWA twice in that article. The school however has successfully bounced back with numbers recorded at 329(Semester 2, 2018) plus however many 3year old kindy students they have.

- So did all the building works go to according to plan. Were they completed?
- What was the approved student capacity upon completion of those works and list of completed facilities at this point? Do they match the proposed Doubleview facility planned?
- Should the provision of extensive landscaping including 11500 plants/trees be part of like-for-like facilities? Which seems over and beyond providing like-for-like. Is that allowed under the School Act too?
- Lastly - ISWA states on the Federal Government website myschool 4/12/2018 "The school is currently embarking on an expansion program that will grow the number of students to approximately 600 over the next few years contrary to the 4 planning applications that went to 4 JDAP panels stating "designed to accommodate 350 students".

After you have considered the above, you would agree that it would be worthwhile to refer the matter to the Solicitor General and to hold a suitable public inquiry to see if the proposed Doubleview Facility is like-for-like as the City Beach one.

Yours Sincerely
STUART MCDONALD