



## Planning Advisory Note 2

### **Subject: Notification of Decision to Prepare a Draft Planning Scheme**

**Purpose:** To advise on the need for and purpose of notifying a decision to prepare a draft planning scheme under s.23 of the *Land Use Planning and Approvals Act 1993*

#### **Background**

Section 23 requires the Planning Authority to forward a copy of a decision to prepare a draft planning scheme to the Commission within 14 days after making the decision, and give such other notice as may be prescribed. It is noted that the current *Land Use Planning and Approvals Regulations* do not prescribe a notice under this section.

Upon being advised of a Planning Authority's decision to prepare a draft planning scheme, it is the Commission's practice to send a letter to all relevant State agencies to advise them of the decision, and encourage early contact with the Planning Authority.

However, in some instances draft planning schemes have been submitted for certification at the same time as, or without, a notice of the decision to prepare, and in those circumstances it is unlikely that all relevant State agencies have had an opportunity for input.

#### **Notification of a Decision to Prepare a Draft Planning Scheme**

The requirement to notify the Commission of the decision to prepare a draft planning scheme effectively provides the Commission with an oversight role in the preparation of the new scheme. The Commission's practice of writing to State Agencies to advise of new schemes provides a general alert in advance of the Planning Authority seeking agency input or information on more specific matters. The requirement in the legislation for the planning authority to formally resolve to prepare a draft planning scheme and provide notice to the Commission are not unnecessary bureaucratic steps, but rather important first steps in the statutory process under Division 1 of Part 3 of the *Land Use Planning and Approvals Act 1993*.

The requirement in section 24 of the Act for the planning scheme to be submitted to the Commission for certification within 12 months of the decision to prepare should not be seen as a limiting provision. It is recognised that preparation of a draft planning scheme can easily extend over a longer period because of limited resources within the planning authority and the need for public consultation. The Commission generally approves requests for an extension of the period as a matter of course.

**Planning Advisory Notes are prepared by the Resource Planning and Development Commission to explain statutory provisions and provide guidance to planning authorities and others on the operation of the planning system.**

Although no other notice under section 23 has as yet been prescribed, this does not prevent a planning authority from publicising its decision to prepare a draft planning scheme. In order to further Schedule 1 Objective (c) of the Act, this notice should seek input from the public and their assistance in scoping the issues that need to be addressed in the new planning scheme.

Similarly, the Commission's letter to State Agencies should not be seen as fulfilling the Planning Authority's obligation to further Objective (e), and the planning authority should consider writing separately to agencies, as well as all other interested bodies and groups, to seek their involvement in the planning scheme in line with this Objective.

### **Further Information**

Relevant legislation may be viewed at <http://www.thelaw.tas.gov.au>.

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