

Practice Note 2

Subject: Urgent amendments

Purpose: To provide guidance on planning scheme amendments under former section 30IA of the *Land Use Planning and Approvals Act 1993*¹.

Introduction

Urgent amendments may be made to interim planning schemes at any time under section 30IA of the *Land Use Planning and Approvals Act 1993*.

Urgent amendments can only be authorised by the Minister for Planning and Local Government if for the specific purposes set out in the Act and the public interest will not be prejudiced [section 30IA(3)].

Amendments that have policy or strategic significance and may impact the public interest should be initiated under section 34 and progressed in the usual manner. This process includes public notification of the draft amendment and invites representations.

Minor errors and editorial matters may not be crucial to the operation of the planning scheme and although it may be desirable to make corrections, consideration should be given to the cost-benefit of doing so.

Getting started

In most cases, urgent amendments arise from requests by councils. If a council requests an urgent amendment it should be accompanied by a council resolution or be requested by a council officer with delegation to do so.

A council making a request to the Commission for an urgent amendment should set out:

- the reasons it is required with reference to the purposes in the Act [section 37(1)(a)]; and

¹ References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the **former provisions** of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme) Act 2015*. Parts 2A and 3 of the **former provisions** remain in force until a Local Planning Scheme comes into effect for the municipal area.

- why the amendment is urgently required, for example, explaining the consequences of not remedying the current provisions immediately and why an amendment under section 34 or 37 is not appropriate.

If the urgent amendment is for a change to the regional provisions contained in the interim planning scheme, the Commission will explore whether other councils in the region should also amend their interim planning schemes.

The urgent amendment process does not apply to making amendments to mandatory provisions required by a planning directive. These require the planning directive to be amended.

The amendment document is prepared by the Commission. For quality assurance, council's planner will be contacted to provide comments on the proposed amendment. Alternatively, the Commission may enlist assistance from council to prepare the amendment document.

When accepted by the Minister, the amendment to the interim planning scheme is made by the Executive Commissioner signing the amendment document. The amendment takes effect on the date specified in the amendment or seven days later, if no date is specified.

The amended version of the interim planning scheme is then taken to be the declared interim planning scheme. The Commission will update the interim planning scheme published on www.iplan.tas.gov.au and provide council a copy of the instrument of amendment for its records.

Notification

The Commission must notify the council, relevant State agencies, and the other councils within the same regional planning area that the amendment has been made [section 30IA(e)].

Council must then publicly notify and exhibit the amended interim planning scheme by:

- publishing a notice of the amendment the newspaper [section 30IA(6)(f)];
- publicly exhibiting the amended interim planning scheme for 14 days [section 30IA(6)(g)]; and
- making the amended interim planning scheme available for viewing online [section 30IA(6)(g)].

There is no opportunity for representations in the process of an urgent amendment.

Further information

For further information contact the Tasmanian Planning Commission:

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