



Resource Planning and Development Commission

Planning Advisory Note 6

Subject: S.37 Amendment of Planning Schemes

Purpose: To provide advice on the circumstances in which the Commission may approve an amendment to a planning scheme without public exhibition

Background

The Resource Planning and Development Commission (the Commission) may approve a draft amendment without public exhibition in accordance with s.37 of the *Land Use Planning and Approvals Act 1993* (the Act), where the public interest will not be prejudiced and the amendment is for the purpose of:

- correcting an error in the planning scheme; or
- removing an anomaly in the planning scheme; or
- clarifying or simplifying the planning scheme; or
- removing any inconsistency between the planning scheme and any Act; or
- making procedural changes to the planning scheme; or
- amending the planning scheme to bring it into conformity with the model planning scheme framework; or
- for any other proscribed reason.

The initial process for a s.37 amendment is the same as for any draft amendment, where the planning authority must first determine to initiate and then certify the draft amendment in accordance with s.32 and s.35 of the Act.

The s.37 process differs in that the planning authority may request the Commission to dispense with the requirement to publicly exhibit and advertise the draft amendment.

Use of s.37

The main purpose of s.37 is to provide for the correction of errors or anomalies in the planning scheme ordinance or plans. This recognises that human error, typographical errors and computer errors may occur.

It may also be used to clarify or simplify a provision of the planning scheme where there is no change made to the intent or meaning, or may make any procedural or other change as required by changes to legislation.

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.

It is not a mechanism to overcome deliberate and conscious prohibitions, restrictions and other provisions of a planning scheme, or to avoid desirable public involvement in the Resource Management and Planning System. Nor does it stop the need for the planning authority to comply with the requirements of s.32 and s.35 of the Act.

The Commission requires the following information to be supplied when requesting a s.37 amendment:

- An assessment demonstrating that the draft amendment has been prepared in accordance with State Policies and furthers the Schedule 1 Objectives of the Act.
- Demonstration that the draft amendment is for a purpose listed under s.37(a) of the Act.
- Demonstration that the draft amendment will not prejudice the public interest without public exhibition.

The planning authority should also supply all relevant documentation as specified in Planning Advisory Note 5.

The Commission will apply the public interest test contained in s.37(b) in every case, and will not exercise its discretion under s.37 where the rights of individuals could be affected.

Planning authorities are encouraged to discuss the matter with Commission staff prior to certifying a draft amendment for that purpose if they have any doubts about the application of s.37.

Further Information

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

For further information, contact:

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