

Subject: Savings provisions – draft amendments to planning schemes not determined before a Local Provisions Schedule (LPS) is approved

Purpose: To provide information on the savings provisions under the *Land Use Planning and Approvals Act 1993* (the Act) for draft amendments to planning schemes that are not determined before an LPS has effect.

Introduction

This information sheet is to draw attention to savings provisions for draft amendments (including combined permit and draft amendment) to existing planning schemes that are not determined before a draft LPS is approved and comes into effect.

Continuing draft amendments

The savings and transitional provisions under Schedule 6 of the *Land Use Planning and Approvals Act 1993* (the Act) allow for some draft amendments, that have been initiated by the planning authority but not approved before a LPS comes into effect, to be considered as a draft amendment to the LPS. However, this is limited to the following:

- (a) altering the designation of a zone to an area of land, including amendment for a new particular purpose zone (PPZ) [Schedule 6, clause 4(1)(a)];
- (b) altering the requirements of a PPZ or specific area plan (SAP) in the existing planning scheme [Schedule 6, clause 5(1)(a)(i)]; or
- (c) establishing a new SAP [Schedule 6, clause 5(1)(a)(i)].

If the request for a draft amendment includes an application for a permit (under section 43A of the former provisions of the Act), the request and the application for a permit are to be determined under section 40T [Schedule 6, clause 6(2)].

Draft amendments that do not meet these requirements, including a request for a draft amendment not initiated by a planning authority, before the LPS comes into effect, will lapse [Schedule 6, clause 7].

Lapsing draft amendments

Examples of draft amendments (or combined permits and draft amendments) to a planning scheme that will lapse include:

- (a) modifications that seek to insert a new definition or exemption (excluding in PPZs or SAPs);
- (b) modifications that seek to insert or amend purpose statements, use tables and standards in zones (excluding PPZs) or codes;
- (c) modifications that seek to insert or amend site-specific qualifications (SSQs);
- (d) modifications to code overlays; and

(e) modifications to code tables such as scenic landscape areas and heritage lists.

What happens when a draft amendment continues?

The draft amendment continues to proceed at the stage that most closely corresponds to the stage reached for the assessment process. For example:

- (a) if the planning authority has certified a draft amendment and reported to the Commission (under section 35 of the former provisions of the Act) and then the LPS comes into effect, the next step would be for the planning authority to publically exhibit under section 40H; or
- (b) if public exhibition and receipt of representations are completed, the next step would be for the planning authority to report to the Commission under section 40K instead of section 39 of the former provisions of the Act.

When a LPS comes into effect, the planning authority may alter the draft amendment to ensure it relates to the LPS, such as refer to the SPP zone name or conform to LPS format, structure, and the numbering and drafting conventions [Schedule 6, clause 5(2)(b)].

Withdrawal of continuing draft amendments

The applicant may withdraw a continuing draft amendment, by written notice to the planning authority at any time before the Commission has determined the draft amendment under section 40Q of the Act [Schedule 6, clause 5 (2)(c)].

Subject to the approval of the Commission, the planning authority may withdraw a continuing draft it initiated of its own motion, at any time before the Commission has determined the draft amendment under section 40Q of the Act [Schedule 6, clause 5(2)(d)].

Further information

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