

Subject: Direction to prepare a draft amendment to a Local Provisions Schedule (LPS) requiring substantial modification

Purpose: To provide guidance following direction from the Commission to prepare a draft amendment to a Local Provisions Schedule (LPS) under section 35KB(1) of the *Land Use Planning and Approvals Act 1993 (the Act)*.

1.0 Introduction

This practice note provides guidance on the requirements for submitting a draft amendment as directed by the Commission where a draft LPS requires substantial modification. The draft amendment is then considered by the Commission as a draft amendment to an approved LPS, after it comes into effect.

Practice Note 12 - Local Provisions Schedule Amendments, 6.0 Exhibition onwards is applicable once the Commission has directed the exhibition of the draft amendment under section 35KB(4)(b)(i) of the Act.

This Practice Note should be read in conjunction with the Act.

2.0 Process

The Act sets out:

- the Commission's consideration of a draft LPS after exhibition [section 35J];
- the Commission may direct the planning authority to modify the draft LPS [section 35K(1)(a)];
- the Commission may direct the planning authority that substantial modifications be made by way of amendments, under Part 3B, to the LPS after it comes into effect [section 35KB(1) and (2)];
- the planning authority is to submit to the Commission the amendments in the terms specified in the direction under section 35KB(1) [section 35KB(3)(a);
- the Commission may either direct the planning authority to publicly exhibit the draft amendment or require the planning authority to resubmit an amended draft amendment [35KB(4)(b)]

Practice Note 11

3.0 Substantial modifications to be provided to the Commission as draft amendments

After considering the draft LPS under section 35J, the Commission will publish its decision and notice to the planning authority to modify the draft LPS [section 35K(1)(a)]. At the same time, if the Commission is of the opinion that substantial modifications are required and that they are suitable to be made by way of an amendment, the Commission will direct the planning authority to prepare amendment(s) to the LPS after it comes into effect [section 35KB(1)].

The planning authority is to prepare the amendment(s) as specified in the Commission's direction, and submit the amendments within 42 days after the LPS comes into effect. The Commission may agree to a longer period. If a longer period is required, the planning authority should make a request to the Commission setting out the reasons more time is required and the date on which the amendments will be submitted. [section 35KB(4)(a)].

If more than one draft amendment is directed, it is preferred that each draft amendment is given an individual amendment number by the planning authority.

The draft amendment(s) does not need to be certified by the planning authority. When submitting the draft amendment(s) to the Commission, a cover letter is sufficient and a supporting report is not required.

4.0 Exhibition

After the Commission receives the draft amendment(s) from the planning authority it will check that the draft amendment(s) are in the terms of its direction.

The Commission will then give notice to the planning authority to either:

- (a) publicly exhibit the draft amendments under section 40G [section 35KB(4)(b)(i)]; or
- (b) resubmit the draft amendment(s) [section 35KB(4)(b)(ii)].

The draft amendment(s) are notified and exhibited by the planning authority in the same way as any draft amendment is required to be notified and exhibited under Part 3 of the Act [sections 40G and 40H]. It is recommended that the Commission's decision and reasons directing preparation of the draft amendment(s) to the LPS is referred to as the relevant supporting documentation, to explain the evidence and reasons for the amendment(s), and is made available during the exhibition period. Further guidance about exhibition requirements, and the remaining process through to decision by the Commission is provided in Practice Note 12 (section 6.0 Exhibition onwards).

Further information

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