

FACT SHEET

Land Use Planning and Approvals Amendment (Streamlining of Process) Bill 2014

The Bill makes a number of amendments to the *Land Use Planning and Approvals Act 1993* and the *Local Government (Building and Miscellaneous Provisions) Act 1993*.

Principally, the Bill amends Division 1A and Divisions 2 and 2A of the *Land Use Planning and Approvals Act* to provide more streamlined processes for interim planning schemes and for making amendments to all planning schemes, and removes the dispensation process for interim planning schemes.

The Bill amends the *Land Use Planning and Approvals Act 1993* by:

- Including in the test for making, declaring, amending etc a planning scheme that the relevant decision-maker must be *of the opinion that* a planning scheme is consistent with the existing provisions of the Act;
- Reducing the timeframe for public exhibition of interim planning schemes from 2 months to 42 days, and the timeframe for planning authorities to provide a report on the representations from 4 months to 3 months;
- Removing the requirement for a planning authority to provide a copy of each representation on a common provision to each other planning authority within the region;
- Providing a single, consolidated set of criteria for where an amendment can be made to a planning scheme without the requirement for public exhibition. This is based primarily on the existing criteria in Divisions 1A and 2 of the Act with the addition of two criteria relating to interim planning schemes, where the public interest will not be prejudiced.

- These two new criteria require the Commission to notify for a period of 14 days, its intention to amend the scheme under this section, so as to determine based on public submissions whether the public interest will be prejudiced;
- Providing that an amendment can be made to an interim scheme under Division 2 or 2A of the Act, and removing the current process which allows for a dispensation from the requirements of an interim scheme (these matters will now be dealt with through the amendment process);
- Removing the requirement for the Commission to hold a hearing on each representation made in relation to an interim scheme and providing instead that the Commission may first consider the matters based on the written representations and then seek the Minister's approval to make certain amendments to the scheme that do not require a further public process because it is satisfied the public interest is not prejudiced, and or to direct a planning authority to initiate an amendment that includes a public hearing process, in relation to other representations;
- Providing that the Commission may, rather than must, provide a written report to the Minister in relation to the common provisions of an interim scheme, and that this is to occur within 2 months, rather than 9 months after considering the applicable matters;
- Introducing a statutory timeframe for the Commission to consider the applicable matters for an interim scheme, of 3 months or such longer period as the Minister allows;
- Providing that the Commission can modify an interim scheme that has been through the current hearing process under the Act prior to the commencement of the provisions of the Bill and make a substitute interim scheme with the Minister's approval (this provides for changes to be made to the Launceston Interim Planning Scheme resulting from the Commission's current consideration);

- Repealing the provisions for making a final planning scheme under section 30N;
- Transitional and savings provisions in relation to dispensations, applications for dispensations, the period in which actions under the Act must be taken and valid applications (in regard to the form of the application)
- Requiring the planning authority to also certify an amendment it agrees to initiate within the same 42-day period, or such longer period as the Commission may allow;
- Providing that a planning authority must regard to any relevant representations or matters in a section 30J report, where these exist, when deciding whether to initiate an amendment, and the Commission may have regard to those matters when considering the representations made in relation to such an amendment,;
- Providing an additional mechanism for an owner or occupier of land who has made a representation in relation to a change of zoning when a declared interim planning scheme was exhibited, to request the planning authority to initiate an amendment in relation to that zoning, in which case the request must be forwarded to the Commission which must then decide whether to seek the Minister's approval to give a written direction to a planning authority to initiate that amendment;
- Providing a power for a planning authority to require additional information from an applicant in relation to an amendment to a planning scheme, in addition to the current power where the amendment includes an application for a permit, and introducing a right for the applicant to request the Commission to review of the requirement for additional information;

- Providing that a planning authority may withdraw a draft amendment to a planning scheme where the draft amendment was initiated on its own motion;
- Providing that a draft amendment must be publicly exhibited for 28 days, or such longer period as the Commission and the planning authority agree, to replace the current period for public exhibition of not less than 3 weeks or more than 2 months;
- Expanding the current power of the Commission to assume the responsibilities of a planning authority under Division 2 where the planning authority has failed to comply with a provision within the statutory period, from its current application to preparation of a draft amendment, to include certification of a draft amendment; and
- Providing that an application for a permit or an amendment to a planning scheme must be in a form approved by the Commission, if any such form exists; and
- Minor related amendments to support the above changes.

The Bill also makes several other amendments to the *Land Use Planning and Approvals Act 1993*, including:

- Introducing a shorter assessment timeframe of 28 days for permitted use and development;
- Providing for an interim planning directive to temporarily suspend or amend the provisions of an existing planning directive;
- Providing planning authorities with discretion to extend a permit to give an additional 2 years for substantial commencement, to a maximum of 6 years;

- Extending the current exemption from planning approval for the reconstruction of accidentally destroyed buildings from its current application to legally established non-conforming uses, to include conforming uses; and
- Clarifying where a planning authority can make minor amendments to permits.

The Bill makes a number of other amendments to the Act to support the above changes, such as introducing new definitions to the Act and providing that the Commission may allow a longer timeframe for certain actions to be undertaken by a planning authority.

The Bill also amends the *Local Government (Building and Miscellaneous Provisions) Act 1993* to allow for subdivision development to be either a permitted or discretionary development in a planning scheme.

These provisions aim to support the finalisation of the interim planning scheme process, to provide a more efficient and timely process for amending planning schemes, and related matters, while ensuring due process and appropriate protection of the public interest and property rights.