

# A protocol for fast tracking amendments

Advisory note

March 2007

This advisory note sets out a 'fast track' protocol to reduce the time frame for amendments that remove redundant provisions.

The advisory note covers:

- the fast track procedure
- the types of amendment suitable for the fast track procedure
- using the provisions of section 20(2) of the Act
- information about other processes to remove redundant provisions.

## Why introduce fast track procedures for amendments?

Having to comply with a redundant planning scheme provision is time-consuming and inefficient and wastes the resources of both the applicant and the council.

The Government is committed to action to remove unnecessary matters from planning schemes. This protocol has been developed to speed up processing amendments which remove redundant provisions.

Fast tracking these amendments will save costs for both the proponent and the

council and will ensure better management of the amendment process.

## What about amendments that arise from a planning scheme review?

Under section 12B of the *Planning and Environment Act 1987* (the Act) a planning authority must regularly review the provisions of the planning scheme.

The review provides the opportunity to assess whether the scheme provisions have been effective in achieving the objectives and strategies of the scheme.

The review may identify planning scheme provisions which are no longer effective or duplicate other provisions. An amendment to remove these provisions may be appropriate to be processed under this fast track procedure.

## What is the fast track procedure?

The fast track procedure involves using the provisions of section 20(4) of the Act for removing redundant provisions. 'Correction amendments' may be considered under the provisions of section 20(2) of the Act.

## Using the provisions of section 20(4) of the Act

Section 20(4) of the Act enables the Minister to amend a planning scheme, with exemption from notice requirements.

The Practice Note, *Ministerial Powers of Intervention in Planning and Heritage Matters (November 2004)*, sets out the circumstances in which the Minister will consider exercising this power and the principles that will apply in considering a request for intervention.

While all the circumstances in which intervention may be considered cannot be prescribed, the following criteria are referred to in the Practice Note as being relevant:

- The matter will give effect to an outcome where the issues have been reasonably considered and the views of affected parties are known (Criteria 2).
- The matter will raise issues of fairness or public interest, where anomalous provisions apply and the valid intent is clearly evident or simple inconsequential correction is required (part of Criteria 4).

The following types of amendments will be considered for submission to the Minister for the 'fast track' process under section 20(4) of the Act:

- the removal of a planning scheme provision that duplicates another provision
- the removal of a planning control that is no longer required.

Examples of where a planning control is no longer required include: removing an overlay that manages a hazard (such as flooding) from properties no longer subject to the hazard, removal of an Environmental Audit Overlay after the audit has been carried out, or removal of a redundant section 55 referral requirement. (See Guide to possible amendment process table.)

## What supporting information is required?

For an amendment request to be considered under section 20(4), the following information is required:

- The request must be made to the Minister by a planning authority in writing via the relevant DSE Regional Office and must identify the basis on which the Minister should intervene, addressing the matters set out in the Practice Note.
- The request must show that it is in the public interest and relate to the removal of unnecessary or redundant provisions consistent with the Government's objectives of removing redundant planning requirements as set out in *Cutting red tape in planning* (August 2006).
- The request must include the agreement of all relevant parties, such as a referral authority.

## Using the provisions of section 20(2) of the Act

The Minister may grant an exemption from the requirements relating to giving notice of an amendment if the Minister considers that compliance with any of those requirements is not warranted, or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

There are some notice requirements from which a planning authority other than the Minister cannot be exempted including the notice requirements to any Minister prescribed in the Regulations.

The following types of amendments will be considered for Ministerial exemption from notice under section 20(2) of the Act:

- a correction to the planning scheme
- a plain English translation of an existing provision where the effect of the provision is unchanged.

Examples of corrections to a planning scheme include ordinance corrections or corrections to the boundary of a zone or overlay. (See the summary of changes table.)

## What supporting information is required?

For an amendment request to be considered for exemption from notice under section 20(2), the planning authority should indicate what notice requirement is required by the Act and why the notice requirements are not warranted.

A Council must give notice of an amendment to owners and occupiers that it believes may be materially affected by an amendment under section 19(1)(b) of the Act. A Council may form the view that amendments which are corrections to the scheme or plain English translations may not materially affect owners and occupiers. Therefore an exemption under section 20(2) is not required.

## What about Ministerial Direction No. 11?

Ministerial Direction No. 11 requires that an explanatory report to an amendment should include an evaluation of how the amendment addresses strategic considerations.

In the case of a correction amendment or an amendment that removes redundant provisions, this should be straightforward and concise.

## What about amendments where the council is authorised to approve the amendment?

Many correction amendments are approved by councils after they have been certified by the Secretary, Department of Sustainability and Environment.

It is likely that in authorising a Council as planning authority to prepare a correction amendment, the Minister will also authorise the planning authority to approve the amendment.

## What about other amendments?

A Council as planning authority should use its discretion in determining the level of detail and strategic justification in the explanatory report. The amount of detail needed will depend on the likely impact of the proposal.

The strategic assessment of an amendment should be straightforward and concise in the following circumstances:

- minor changes that involve a small number of lots or a minor ordinance change which is consistent with State and local policy
- changes in schedules that reduce permit requirements.

These are also amendments where the Minister is likely to authorise a council to approve the amendment.

The Minister may also grant an exemption from the need to comply with Ministerial Direction No. 11 for an amendment.

## Summary of the changes

A summary of the protocol is shown in the attached table – Guide to possible amendment process.

## Further information about amendments

For more information about the planning scheme amendment process, refer to the DSE web page on amendments which can be accessed from [www.dse.vic.gov.au/planning](http://www.dse.vic.gov.au/planning).

This web page contains links to information about the process of amending planning schemes, standard templates and links to other useful sites. It also contains information about the status and progress of individual amendments.

## Guide to possible amendment process

Type of amendment	Amendment process
<p>Removal of an overlay that is no longer required, for example:</p> <ul style="list-style-type: none"> <li>• Land in a flood overlay where evidence is provided that it is not subject to flooding;</li> <li>• Land where evidence is provided that an EAO is no longer required.</li> <li>• Land where evidence is provided that a PAO is no longer required.</li> <li>• Removal of Road Closure Overlay</li> </ul> <p>Removal of a redundant referral where referral agency agrees.</p> <p>Removal of a provision that duplicates another provision.</p> <p>Rezoning land that is no longer in public ownership from the Public Use Zone where the replacement zoning is clear.</p> <p>Rezoning land in public ownership to a Public Use Zone.</p>	<p>An amendment will be considered under s20(4)</p>
<p>Correction of an error in the ordinance or maps.</p> <p>A plain English translation that does not change the effect of the provision</p>	<p>An exemption from notice under section 20(2) for the amendment may be justified. (Concise explanatory report. Council may be authorised to approve the amendment.)</p>
<p>Minor changes that involve a small number of lots or a minor ordinance change which is consistent with State and local policy</p> <p>Changes to schedules that reduce permit requirements.</p>	<p>Exhibition of the amendment will generally be required. (Concise explanatory report. Council may be authorised to approve the amendment.)</p>
<p>Other amendments</p>	<p>Full exhibition of the amendment and an explanatory report that addresses strategic consideration will generally be required.</p>

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