

Part 4 — Preparation or adoption of local planning scheme

Division 1 — Proposal to prepare or adopt local planning scheme

19. Resolution to prepare or adopt scheme

- (1) A resolution of a local government to prepare or adopt a local planning scheme must be in a form approved by the Commission.

Note for this subregulation:

Section 72(1) of the Act provides for a local government to prepare a local planning scheme or to adopt a local planning scheme proposed by the owners of land in respect of which the local government might have prepared a scheme.

- (2) The local government may resolve not to adopt a local planning scheme proposed by a landowner if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the proposed scheme —
- (a) for the purpose of preparing and implementing the scheme; and
 - (b) for zero remuneration.

20. Notification of resolution

- (1) A local government must, as soon as is reasonably practicable after passing a resolution to prepare or adopt a local planning scheme, advertise the resolution as follows —
- (a) publish a notice in a form approved by the Commission in accordance with regulation 76A;
 - (b) provide a copy of the published notice to the following persons or bodies for recommendations —
 - (i) the local government of each district that adjoins the local government district;

- (ii) each licensee under the *Water Services Act 2012* likely to be affected by the scheme;
- (iii) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Conservation and Land Management Act 1984*;
- (iv) each other public authority likely to be affected by the scheme.

Note for this subregulation:

Under section 81 of the Act written notice of the resolution and written information about the local planning scheme must be given to the EPA.

- (2) A local government must, on the provision of the published notice to a person or body referred to in subregulation (1)(b), request the person or body to provide to the local government within 21 days or such longer period as the local government allows, a memorandum in writing setting out any recommendations in respect of the resolution.
- (3) If a person or body does not provide a memorandum within the time allowed under subregulation (2), the local government may determine that the person or body is to be taken to have no recommendations to make in respect of the resolution.

[Regulation 20 amended: SL 2020/252 r. 10.]

Division 2 — Advertising local planning scheme

21. Resolution to proceed to advertise draft local planning scheme

- (1) On completion of the preparation of local planning scheme documents or the consideration of local planning scheme documents proposed by an owner of land in the scheme area, a local government must resolve —
 - (a) to proceed to advertise the draft local planning scheme without modification; or

- (b) to proceed to advertise the draft local planning scheme with modifications; or
 - (c) not to proceed to advertise the draft local planning scheme.
- (2) If the local government resolves to proceed to advertise a draft local planning scheme the local government must, before advertising the scheme, submit 2 copies of the draft local planning scheme documents to the Commission.
- (3) The documents referred to in subregulation (2) must be submitted within 21 days of the local government resolution or such longer period as the Commission allows.
- (4) The Commission must, within 90 days or such longer period as the Minister or an authorised person allows, of receiving the documents submitted under subregulation (2), examine the documents and advise the local government if the Commission considers that any modification to the documents is required before the draft local planning scheme is advertised.
- (5) If the local government resolves not to proceed to advertise a draft local planning scheme the local government must, within 21 days or such longer period as the Commission allows, provide a copy of the resolution to the Commission.

22. Advertisement of local planning scheme

- (1) Subject to sections 81 and 82 of the Act, if the Commission advises a local government that it is satisfied that a draft local planning scheme submitted by the local government is suitable to be advertised, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of —
 - (a) the purpose of the draft scheme; and
 - (b) how the draft scheme is to be made available to the public in accordance with regulation 76A; and

- (c) the manner and form in which submissions may be made; and
 - (d) the period under subregulation (3) for making submissions and the last day of that period.
- (2) On completion of the preparation of the notice, the local government must advertise the draft local planning scheme for public inspection as follows —
- (a) publish in accordance with regulation 76A —
 - (i) the notice; and
 - (ii) the draft local planning scheme;
 - (b) give a copy of the notice to each public authority that the local government considers is likely to be affected by the draft local planning scheme;
 - (c) advertise the draft local planning scheme as directed by the Commission and in any other way the local government considers appropriate.

[(d), (e) deleted]

- (3) The period for making submissions on a draft local planning scheme is —
- (a) the period of 90 days after the day on which the notice is first published under subregulation (2)(a)(i); or
 - (b) a longer period approved by the Commission.

[(4) deleted]

[Regulation 22 amended: SL 2020/252 r. 11.]

23. Land owner may be required to pay costs of publication

The local government may require a person to pay the cost of the publication of a notice under regulation 22(2) if —

- (a) the notice relates to a draft local planning scheme in respect of land owned by the person; and
- (b) the person proposed the draft scheme.

24. Submissions on local planning scheme

- (1) A submission on a draft local planning scheme must —
 - (a) be made to the local government in a form approved by the Commission; and
 - (b) state the name and address of the person making the submission; and
 - (c) include a statement about the capacity in which the person makes the submission.
- (2) A local government must acknowledge in writing the receipt of each submission received by it.

25. Consideration of submissions

- (1) In this regulation —

consideration period, in relation to a draft local planning scheme, means the period ending on the latest of the following days —

 - (a) the day that is 120 days after the end of the submission period for the draft scheme;
 - (b) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48F(2)(a) of the EP Act;
 - (c) the day that is 21 days after the receipt of a statement in respect of the draft scheme delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);
 - (d) a day approved by the Commission;

submission period, in relation to a draft local planning scheme, means the period for making submissions that applies under regulation 22(3).

- (2) The local government —
- (a) must consider all submissions on a draft local planning scheme lodged with the local government within the submission period; and
 - (b) may, at the discretion of the local government, consider submissions on a draft scheme lodged after the end of the submission period but before the end of the consideration period.
- (3) Before the end of the consideration period for a draft local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —
- (a) to support the draft scheme without modification; or
 - (b) to support the draft scheme with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the draft scheme.
- (4) If no submissions have been received within the submission period, the resolution referred to in subregulation (3) must be passed as soon as is reasonably practicable after the end of the submission period.

[Regulation 25 amended: SL 2020/252 r. 12.]

26. Local government may advertise proposed modifications to draft local planning scheme

- (1) The local government may decide to advertise a proposed modification to the draft local planning scheme if —
- (a) the local government proposes the modification to address issues raised in submissions made on the draft scheme; and
 - (b) the local government is of the opinion that the proposed modification is significant.

- (2) If a local government makes a decision under subregulation (1) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the draft local planning scheme.
- (3) A proposed modification to a draft local planning scheme may not be advertised on more than one occasion without the approval of the Commission.
- (4) Any advertisement of a proposed modification to the draft local planning scheme must include a notice specifying —
 - (a) the proposed modification to be made to the advertised local planning scheme; and
 - (b) details of how the proposed modification is made available to the public; and
 - (c) the manner and form in which submissions may be made; and
 - (d) the period under subregulation (5) for making submissions and the last day of that period.
- (5) The period for making submissions on the proposed modification is —
 - (a) the period of 60 days after the day on which the notice under subregulation (4) is first advertised; or
 - (b) a longer period approved by the Commission.
- (6) A person may make a submission on a proposed modification to a draft local planning scheme that has been advertised in accordance with subregulation (2) —
 - (a) in the manner and form specified in the notice; and
 - (b) within the period specified in the notice.

- (7) If a proposed modification to a draft local planning scheme is advertised in accordance with this regulation, a local government —
- (a) must consider all submissions on the proposed modification made to the local government within the period specified in the notice; and
 - (b) may, at the discretion of the local government, consider submissions on the proposed modification made to the local government after the end of the period specified in the notice; and
 - (c) must make a recommendation in respect of each submission considered.

[Regulation 26 amended: SL 2020/252 r. 13.]

27. Incorporation of environmental conditions

If a local government receives a statement in respect of a draft local planning scheme delivered under section 48F(2) of the EP Act after passing a resolution to support the draft scheme but before complying with regulation 28, the local government must amend the local planning scheme documents —

- (a) to incorporate the conditions set out in the statement; or
- (b) if as the result of a request by the local government under section 48G(1) of the EP Act a statement is delivered to the local government under section 48G(3) of the EP Act, to incorporate the conditions set out in that later statement.

28. Information on draft local planning scheme to be provided to the Commission

- (1) After passing a resolution under regulation 25(3) the local government must provide the advertised local planning scheme documents to the Commission together with the following —
- (a) a schedule of submissions made on the draft scheme;

- (b) the response of the local government to each submission;
 - (c) particulars of each modification to the draft scheme proposed by the local government in response to the submissions;
 - (d) if any proposed modification to the scheme was advertised —
 - (i) an explanation of the reasons for advertising the modification; and
 - (ii) particulars of how the modification was advertised; and
 - (iii) a schedule of submissions made on the proposed modifications; and
 - (iv) the recommendation of the local government in accordance with regulation 26(7)(c) in respect of each submission;
 - (e) a copy of the resolution passed under regulation 25(3);
 - (f) if that resolution was a resolution under regulation 25(3)(c) — a summary of the reasons why the local government does not support the draft scheme;
 - (g) details of any provision in the draft scheme that varies or excludes a provision set out in Schedule 1;
 - (h) details of any provision in the draft scheme that supplements a provision set out in Schedule 2;
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.
- (2) A schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include —
- (a) the name and address of the person making the submission; and
 - (b) where it is relevant, a description of the property that is the subject of the submission; and

- (c) the submission or a summary of the submission.
- (3) The documents referred to in subregulation (1) must be provided to the Commission —
 - (a) in the case of a resolution to support a draft local planning scheme without modification or not to support a draft local planning scheme — within 21 days of passing the resolution; or
 - (b) in the case of a resolution to support a draft local planning scheme with proposed modifications —
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or
 - (ii) otherwise — within 21 days of complying with regulation 26(7);or
 - (c) if the Commission in any case approves a longer period — within that longer period.

29. Commission to submit draft local planning scheme and recommendations to Minister

The Commission must, within 120 days of receiving the documents provided to it under regulation 28(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and
- (b) make any recommendations to the Minister in respect of the draft local planning scheme that the Commission considers appropriate; and
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.

30. Minister or authorised person may direct modifications to draft local planning scheme be advertised

- (1) Before a decision is made under section 87 of the Act, the Minister or an authorised person may direct the local government to advertise modifications to a draft local planning scheme if —
 - (a) the local government proposes, or the Commission recommends, that the scheme that was advertised under regulation 22 be modified; and
 - (b) the Minister or authorised person is of the opinion that the modification is significant.
- (2) The direction must include details of the process to be followed in respect of the advertisement including timeframes for —
 - (a) the making and consideration of submissions on the modifications; and
 - (b) providing recommendations to the Minister or authorised person following the advertisement.
- (3) If a local government is given a direction under subregulation (1), the local government must advertise the modification to a local planning scheme as directed by the Minister or authorised person.

Division 3 — Giving effect to decision on local planning scheme

31. Giving effect to Minister’s decision

- (1) If a local government is notified that the Minister has, under section 87(2)(c) of the Act, refused to approve a local planning scheme, the local government must, as soon as is reasonably practicable, notify each person who made a submission in relation to the local planning scheme of that refusal.
- (2) Within 42 days of being notified that, under section 87(2)(b) of the Act, the Minister requires the local government to modify

the draft local planning scheme, or a longer period approved by the Minister or authorised person, the local government must —

- (a) modify the draft scheme as required; and
 - (b) execute the modified local planning scheme documents; and
 - (c) submit to the Minister a copy of the executed documents.
- (3) If the local government is notified that the Minister has, under section 87(2)(a) of the Act, approved the local planning scheme, the local government must provide to the Commission for endorsement such copies of the local planning scheme as the Commission requires, including not less than 2 copies of the local planning scheme documents that have been executed by the local government.
- (4) The documents referred to in subregulation (3) must be provided within 14 days of the local government being notified of the Minister's approval, or a longer period approved by the Commission.

32. Endorsement of local planning scheme

- (1) The Commission must endorse each of the copies of the local planning scheme that has been executed by the local government and submit one of those copies to the Minister.
- (2) The Minister must endorse the copy of the local planning scheme with the Minister's approval and return it to the Commission.
- (3) A person authorised in writing by the Commission may certify that a copy of a local planning scheme is a true copy of a local planning scheme as approved by the Minister.

33. Advertisement of approved local planning scheme

- (1) The Commission must provide to the relevant local government a copy of the notice of a local planning scheme published in the *Gazette* under section 87(3) of the Act.
- (2) For the purposes of section 87(4B)(a) of the Act, the local government must advertise the local planning scheme as follows —
 - (a) publish a copy of the notice referred to in subregulation (1) in accordance with regulation 76A;
 - (b) publish the local planning scheme in accordance with regulation 76A;
 - (c) notify each person who made a submission in relation to the local planning scheme —
 - (i) that the local planning scheme has been approved; and
 - (ii) of the details of how the local planning scheme is made available to the public in accordance with regulation 76A.
- (3) Subregulation (2)(b) is an ongoing publication requirement for the purposes of regulation 76A(5)(a).

[Regulation 33 amended: SL 2020/252 r. 14.]

76A.

- (1) This regulation applies if under a provision of these regulations (other than Schedule 1 or 2) a local government is required to publish in accordance with this regulation a notice, scheme, amendment or other document (the *document*).

- (2) The local government must make the document available in accordance with the applicable requirements of subregulations (3) to (5).

Note for this subregulation:

Under regulation 76B, the Commission may approve varied requirements that apply if it is not practicable for a local government to publish documents in accordance with subregulations (3) to (5).

- (3) For all documents, the local government must —
- (a) publish on the website of the local government —
 - (i) the document; or
 - (ii) a hyperlink to a webpage on which the document is published;
 - and
 - (b) if it is reasonably practicable to do so — make a copy of the document available for public inspection at a place in the district of the local government during normal business hours.
- (4) If the document is a notice and the local government considers that it is appropriate in the circumstances for the notice to be published in a newspaper, the local government must also ensure that the notice is published in a newspaper circulating in the relevant locality in the local government's district.
- (5) The local government must ensure that the document remains published under subregulation (3)(a) and (if applicable) available for public inspection under subregulation (3)(b) —
- (a) if the document is published in compliance with a requirement that is expressed to be an ongoing publication requirement — at all times that the document is in effect; or
 - (b) if the document is published in compliance with a requirement to advertise for submissions or recommendations under these regulations — during the

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whole of the period within which submissions or recommendations may be made; or

- (c) if paragraphs (a) and (b) do not apply — during a period that the local government considers is reasonable.

[Regulation 76A inserted: SL 2020/252 r. 26.]