

**PLANNING****PD301**

TOWN PLANNING AND DEVELOPMENT ACT 1928  
TOWN PLANNING AMENDMENT REGULATIONS (No. 2) 1996

Made by the Minister under section 9 of the Act.

**Citation**

1. These regulations may be cited as the *Town Planning Amendment Regulations (No. 2) 1996*.

**Commencement**

2. These regulations come into operation on the day on which the *Planning Legislation Amendment Act 1996* comes into operation.

**Principal regulations**

3. In these regulations the *Town Planning Regulations 1967\** are referred to as the principal regulations.

[\* Reprinted as at 28 May 1996.]

**Regulation 3 amended**

4. Regulation 3 of the principal regulations is amended by inserting in the appropriate alphabetical position the following definition —

“

“**Chief Executive Officer**” means the chief executive officer of the relevant local government;

”.

**Regulation 4 amended**

5. Regulation 4 of the principal regulations is amended —

- (a) in subregulations (1) and (4) by deleting “municipal” in each place where it occurs;
- (b) in subregulation (2) —
  - (i) by deleting “municipal” in the first place where it occurs;
  - and

- (ii) by deleting "the municipal district of an adjoining local authority" and substituting the following —
  - " an adjoining district ";
- (c) in subregulations (3) (a) and (b) and (5) (a) and (b) by deleting "Town/Shire Clerk as the case may be" and substituting the following —
  - " Chief Executive Officer "; and
- (d) in subregulations (4) and (5) by deleting "two or more adjoining local authorities" and substituting the following —
  - " the local governments of two or more adjoining districts ".

**Regulation 5 amended****6. Regulation 5 (2) of the principal regulations is amended —**

- (a) by deleting "every adjoining local authority" and substituting the following —
  - " the local government of every adjoining district "; and
- (b) by deleting "adjoining local authority" in the second place where it occurs and substituting the following —
  - " local government of an adjoining district ".

**Regulation 13 amended****7. After regulation 13 (2) of the principal regulations the following subregulations are inserted —**

- "
- (3) The Commission shall not recommend to the Minister under subregulation (2) that he give his consent to the Scheme being advertised for public inspection (with or without modifications) unless —
    - (a) sections 7A2 of the Act and 48C (6) (a) of the EP Act have been complied with; or
    - (b) the recommendation is conditional on those sections being complied with before the Scheme is advertised for public inspection.
  - (4) If the EPA acts under section 48A (1) (c) or 48C (1) (a) of the EP Act, the Commission shall return the Scheme documents to the local government.
  - (5) If the EPA acts under section 48C (1) (a) of the EP Act and the local government wishes to proceed with the Scheme —
    - (a) the local government shall return the Scheme documents to the Commission after it has complied with sections 7A2 of the Act and 48C (6) (a) of the EP Act; and
    - (b) if it has not already done so, the Commission shall make a recommendation under subregulation (2).
- ".

**Regulation 14 amended****8. After regulation 14 (1) of the principal regulations the following subregulations are inserted —**

- "
- (1a) If the Minister gives his consent under subregulation (1) (a) or (c) —
    - (a) before the EPA has acted under section 48A of the EP Act; or

- (b) after the EPA has acted under section 48A (1) (a) of the EP Act,

the consent must be conditional on sections 7A2 of the Act and 48C (6) (a) of the EP Act being complied with (if compliance is required) before the Scheme is advertised for public inspection.

(1b) If the EPA has acted under section 48A (1) (c) or 48C (1) (a) of the EP Act, the Minister shall not give his consent under subregulation (1) (a) or (c) until —

- (a) if the EPA acted under section 48A (1) (c) of the EP Act, a direction is given under section 48A (2) (a) of the EP Act; and
- (b) the local government, if it wishes to proceed with the Scheme, has —
- (i) complied with sections 7A2 of the Act and 48C (6) (a) of the EP Act; and
- (ii) returned the Scheme documents to the Commission. ”.

#### **Regulation 15 amended**

9. (1) Regulation 15 (1) of the principal regulations is amended by inserting after “regulation 14” the following —

“ and, if that consent was conditional, the conditions have been satisfied ”.

(2) Regulation 15 (2) of the principal regulations is amended —

- (a) by deleting “municipality” in the first place where it occurs and substituting the following —

“ local government ”; and

- (b) by deleting “that municipality” and substituting the following —

“ the district of that local government ”.

(3) Regulation 15 (4) of the principal regulations is amended by deleting “every public authority affected by the Scheme,” and substituting the following —

“

each public authority and other person whom the local government is required by section 7 (2aa) of the Act to consult,

”.

#### **Regulation 16 amended**

10. After regulation 16 (2) of the principal regulations the following subregulation is inserted —

“

(3) A responsible authority shall promptly acknowledge in writing the receipt of each submission received by it.

”.

#### **Regulation 17 amended**

11. Regulation 17 (1) of the principal regulations is repealed and the following subregulation is substituted —

“

(1) Subject to subregulation (1a) the responsible authority shall, within —

- (a) 6 months of the expiry of the period specified by the Commission or the Minister, as the case requires, under regulation 15 (5) for making submissions;

- (b) 42 days of receiving a statement delivered under section 48F (2) (a) of the EP Act; or
- (c) if the responsible authority makes a request under section 48G (1) of the EP Act within the longer of the periods referred to in paragraphs (a) and (b) and a statement is delivered under section 48G (3) of the EP Act, 42 days of receiving that latter statement,

(whichever is the longer period), or such further period as is approved by the Minister, consider all submissions to the Scheme and in respect of each submission shall consider whether the Scheme should be modified accordingly or whether that submission should be rejected.

”.

#### **Regulation 17A inserted**

12. After regulation 17 of the principal regulations the following regulation is inserted —

“

#### **Incorporation of environmental conditions**

17A. If a responsible authority has —

- (a) passed a resolution under regulation 17 (2) (a); and
- (b) received a statement delivered under section 48F (2) of the EP Act,

the responsible authority shall, before complying with regulation 18, amend the Scheme documents to incorporate the conditions —

- (c) set out in that statement; or
- (d) if the responsible authority has received a statement delivered under section 48G (3) of the EP Act, set out in that latter statement.

”.

#### **Regulation 18 amended**

13. Regulation 18 (1) of the principal regulations is amended by deleting “to the Commission — ” and substituting the following —

“ the Scheme documents to the Commission together with — ”.

#### **Regulation 20 amended**

14. Regulation 20 (5) of the principal regulations is amended by deleting “section 7 (2)” and substituting the following —

“ section 7 (2a) ”.

#### **Regulation 21 amended**

15. After regulation 21 (1) of the principal regulations the following subregulation is inserted —

“

(1a) If the responsible authority is notified that the Minister has refused to approve of the Scheme, the responsible authority shall forthwith notify each person who made a submission in relation to the Scheme of that refusal.

”.

#### **Regulation 22 amended**

16. Regulation 22 (1) of the principal regulations is amended by deleting “in accordance with section 189 of the *Local Government Act 1960*,”.

**Regulation 23 amended**

17. After regulation 23 (2) of the principal regulations the following subregulation is inserted —

“

(2a) The responsible authority shall forthwith notify each person who made a submission in relation to the Scheme —

- (a) that the Scheme has been approved; and
- (b) whether, and if so how, the Scheme was modified in response to their submission.

”.

**Regulation 25 amended**

18. Regulation 25 of the principal regulations is amended —

- (a) in paragraph (e), by deleting “regulation” in the first place where it occurs and substituting the following —

“ regulations 13 (4) and (5) and ”;

- (b) in paragraph (fb), by inserting after “(17) (1)” the following —

“ (a) ”; and

- (c) in paragraph (g), by inserting after “modification” the following —

“ and has complied with regulation 17A ”.

**Regulation 25AA amended**

19. (1) After regulation 25AA (1) of the principal regulations the following subregulations are inserted —

“

(1a) If the Commission gives its consent under subregulation (1) (a) or (b) —

- (a) before the EPA has acted under section 48A of the EP Act; or
- (b) after the EPA has acted under section 48A (1) (a) of the EP Act,

the consent must be conditional on sections 7A2 of the Act and 48C (6) (a) of the EP Act being complied with (if compliance is required) before the Amendment is advertised for public inspection.

(1b) If the EPA has acted under section 48A (1) (c) or 48C (1) (a) of the EP Act, the Commission shall return the Amendment documents to the local government and shall not give its consent under subregulation (1) (a) or (b) until —

- (a) if the EPA acted under section 48A (1) (c) of the EP Act, a direction is given under section 48A (2) (a) of the EP Act; and
- (b) the local government, if it wishes to proceed with the Amendment, has —
  - (i) complied with sections 7A2 of the Act and 48C (6) (a) of the EP Act; and
  - (ii) returned the Amendment documents to the Commission.

”.

(2) Regulation 25AA (3) of the principal regulations is amended by inserting after "Commission shall" the following —

" , subject to subregulations (1a) and (1b), "

(3) Regulation 25AA (4) (b) of the principal regulations is amended by deleting "or (c)".

#### **Regulation 25B inserted**

**20.** After regulation 25A of the principal regulations the following regulation is inserted —

"

#### **Expenses of environmental review**

**25B.** (1) If a local government wishes to be able to recover review expenses under section 7A2 (5) of the Act, the local government shall —

- (a) before the Scheme or Amendment is advertised for public inspection —
  - (i) select one of the bases set out in subregulation (4) as the basis on which the review expenses will be recoverable from owners of affected land; and
  - (ii) include a statement setting out that selection in the Scheme or Amendment documents; and
- (b) keep separate records setting out details of review expenses incurred and recovered, affected land and any agreements of the type referred to in subregulation (3).

(2) A local government may recover from each owner of affected land, as a debt due by that owner to the local government, the proportion of the review expenses recoverable from that owner in accordance with the basis selected under subregulation (1) (a) (i) and the local government may recover that debt in any court of competent jurisdiction.

(3) Unless the local government and the owner of affected land have agreed in writing that the review expenses may be recovered at an earlier time, review expenses shall not be recovered from that owner under section 7A2 (5) of the Act until the Scheme or Amendment has come into force and —

- (a) that affected land is sold or subdivided; or
- (b) in the case of an Amendment that changed the zoning of affected land, the local government grants approval for the development of affected land owned by that person that could not have been granted under the Scheme prior to the Amendment coming into force.

(4) The bases on which review expenses may be recovered are —

- (a) proportional land area, in accordance with which the local government may recover from a person the same proportion of the review expenses as the area of affected land owned by that person bears to the area of all of the affected land;
- (b) proportional land value, in accordance with which the local government may recover from a person the same proportion of the review expenses as the value of the affected land owned by that person bears to the value of all of the affected land; and
- (c) any other equitable basis approved by the Minister.

(5) In this regulation —

**"affected land"** means land to which the Scheme or Amendment relates;

**“review expenses”** means expenses incurred by a local government in undertaking an environmental review of a Scheme or Amendment in accordance with instructions issued under section 48C (1) (a) of the EP Act;

**“value”**, in relation to land, means the rateable value of the land recorded in the rate records of the local government at the time the resolution to prepare or adopt the Scheme or Amendment was passed.

”.

#### **Appendix A amended**

**21.** Appendix A to the principal regulations is amended —

- (a) in Forms 1, 1A and 1C by deleting “Council” in the first place where it occurs and substituting the following —  
“ local government ”;
- (b) in Forms 1, 1A and 2 by inserting after “Council” in the last place where it occurs the following —  
“ of the local government ”;
- (c) in Forms 1, 1A, 1C, 2, 3, 3A, 6, 6A and 7 by deleting “Town/Shire Clerk” or “Shire/Town Clerk” in each place where they occur and substituting the following —  
“ Chief Executive Officer ”;
- (d) in Forms 1, 1A, 6 and 6A by deleting “Local Authority” and substituting the following —  
“ Local Government ”;
- (e) in Form 1B —
  - (i) by deleting “Local Authority/ies” and substituting the following —  
“ Local Government/s ”;
  - (ii) by deleting “Town Planning Board” and substituting the following —  
“ Commission ”; and
  - (iii) by deleting “Board” in each other place where it occurs and substituting the following —  
“ Commission ”;
- (f) in Form 3 by inserting after “given that the” the following —  
“ local government of the ”; and
- (g) in Form 4 by deleting “Town\*/Shire\* Clerk” and substituting the following —  
“ Chief Executive Officer ”.

#### **Various references to “local authority” amended**

**22.** In each place listed in the Table to this subregulation “local authority” is deleted in each place where it occurs and the following is substituted —

“ local government ”.

## Table

reg. 4 (1), (2) in the first place where it occurs, (3), (4), (5), (6)	reg. 13 (1)
reg. 5 (1), (2) in the first and third places where it occurs	reg. 14 (2), (3), (4)
reg. 6 (1), (2)	reg. 15 (1)
reg. 7	reg. 21 (3)
reg. 8 (2)	reg. 25 (g)
reg. 12 (1)	reg. 25AA (2), (4), (5), (6)
	reg. 25AB (a)
	reg. 25A

**Transitional**

**23.** If sections 7A1, 7A2, 7A3 and 7A4 of the Act do not apply to a Scheme or Amendment because of the operation of section 45 (2) of the *Planning Legislation Amendment Act 1996*, the principal regulations apply to that Scheme or Amendment as if regulations 7 to 12 and 15 to 17 of these regulations were not in operation.

R. K. LEWIS, Minister for Planning.

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