# 

<TEMPLATE>

# Chief Executive Notice

## Notice about the process for amending a planning scheme under section 18(3) of the *Planning Act 2016*

<Insert proposed planning scheme amendment name and existing planning scheme name> - <insert council name>

### Introduction

This notice is given by the Chief Executive of the department administering the *Planning Act 2016* (Chief Executive) in accordance with section 18(3) of the *Planning Act 2016* (the Act), with respect to the planning scheme amendment proposed by the local government (proposed amendment) by way of notice under section 18(2) of the Act.

Part A of this notice sets out the steps undertaken for the planning and preparation of the proposed planning scheme amendment prior to the issuing of this notice. Parts B & C of this notice set out the process that applies to the proposed amending of this planning scheme, and the entity responsible for each step in the process[[1]](#footnote-2).

The process stated in this notice must be followed by the local government in accordance with section 18(6) of the Act.

1. **Chief Executive Powers and Functions**

The Chief Executive delegates under section 282 of the *Public Sector Act 2022* the functions and powers of the Chief Executive under this notice to the following delegates:

* 1. For Chief Executive functions and powers listed in Part B of this notice: <Chief Executive may list specific department officer/s, where appropriate: for example:
     1. Deputy Director General, Planning Group
     2. Executive Director, Planning Group
     3. Director, Planning Group
     4. Manager, Planning Group >
  2. For Chief Executive functions and powers listed in Part C of this notice, the person stated as the delegate for each step in Column 4 of Table 2.

Chief Executive delegations exclude the power to subdelegate.

### Part A – Planning and preparation

Early and ongoing engagement with the State government and other stakeholders identifies and helps address issues early in the plan-drafting process.

Table 1 sets out the steps that the local government has advised the Chief Executive have been undertaken for the planning and preparation of the proposed planning scheme amendment prior to the issuing of this notice.

**Table 1:** **Planning and preparation steps**

| **Step No.** | **Summary of action/s** | **Specific action/s** |
| --- | --- | --- |
| Step A | Early engagement with State agencies and other relevant parties | Early engagement[[2]](#footnote-3), facilitated by the department administering the Act (department), has been undertaken on the proposed planning scheme amendment with the following state agencies and other relevant parties:   * <insert detail of early engagement including who, when and how this has taken place>   The following state agencies and other relevant parties have written to the department to provide preliminary advice on the proposed planning scheme amendment:   * <insert detail of preliminary advice>   The following state agencies and other relevant parties have written to the department and have advised they wish to opt out of the state interest review for the proposed planning scheme amendment (Step 1 of Table 2, Part C):   * <insert state agencies and other relevant parties who have chosen to opt out> |
| Step B | Local government proposes a planning scheme amendment and requests a streamlined amendment process | The <insert local government> proposed to make the <insert proposed planning scheme amendment name> to <insert existing planning scheme name> on <insert date>.  On [insert date] the [insert local government] wrote to the Chief Executive requesting the Chief Executive to issue a notice under section 18(3) of the Act for the [insert proposed planning scheme amendment name] to [insert existing planning scheme name]  The request included:  a draft notice under section 18(3) of the Act for the Chief Executive’s consideration;  a communications strategy;  a electronic copy of the proposed planning scheme amendment;  a statement about the nature and objectives of the proposed planning scheme amendment and why a streamlined amendment process is proposed;  consideration of the effect of the proposed planning scheme amendment on state interests;  any relevant mapping (if available); and  the outcomes of early engagement. |

### Part B – General process provisions

This part prescribes matters that are to be read in conjunction with the requirements set out in Part C.

1. **Requesting information and changes**
   1. The Minister for Planning (Minister) or Chief Executive, as relevant to the process, may, at any time, give the local government a notice:
      1. requesting further information; or
      2. advising of any changes to the proposed planning scheme amendment to address state interests.
2. **Managing timeframes** 
   1. The Minister, Chief Executive, or local government, may pause a timeframe (except for the public consultation timeframe) for an action for which the entity is responsible, by giving notice to the other entity prescribed in the relevant section of the process. This notice must state the period for which the timeframe will be paused and a date upon which the timeframe will restart.
   2. If a notice to pause a timeframe is given, the process is paused from the day[[3]](#footnote-4) after the notice is given until the date stated in the notice, unless the notice is earlier withdrawn by the party that gave the notice.
   3. If a notice to pause a timeframe is withdrawn, the process restarts from the day after the withdrawal notice is given.
   4. The duration of a pause notice may be extended by the giving of another pause notice before the paused period ends.
   5. Each entity may only pause timeframes for steps for which it is responsible under Part C of this notice for a cumulative total number of days as follows:
      1. for the Minister and the Chief Executive, collectively a total of <45> days; and
      2. for the local government, a total of <45> days.
   6. A timeframe may be paused beyond the cumulative total number of days stated in Section 2.5 where the local government and either the Minister or Chief Executive, whichever entity is relevant to the current part of the process, agree that it is appropriate to pause the timeframe for a further agreed number of days.
3. **Public consultation**

For public consultation included in Part C of this notice, the local government is required to comply with the following:

* 1. Publish at least one public notice about the proposal to amend the planning scheme.
  2. Keep the proposed planning scheme amendment available for inspection and purchase for the duration of the consultation period identified in Part C of this notice.
  3. The public notice must:
     1. be in accordance with the requirements stated in the definition of ‘public notice’ in schedule 2 of the Act;
     2. state the consultation period identified in Part C of this notice; and
     3. state that any person may make a submission about the proposed planning scheme amendment to the local government within the consultation period.
  4. Consider all properly made submissions about the proposed planning scheme amendment.
  5. Notify persons who made properly made submissions about how the local government dealt with the submissions.
  6. For the public consultation report, a notice containing a summary of the matters raised in the properly made submissions and stating how the local government dealt with the matters must be given to the Minister.
  7. If consultation is required to be repeated due to a significantly different change (having regard to the definition in the Minister’s Guidelines and Rules (MGR), including reference to schedule 2 of the MGR), the local government may decide to limit the public consultation to only those aspects of the proposed planning scheme amendment that have changed.

1. **Communications strategy**

The local government is required to implement the communications strategy about the proposed planning scheme amendment at Appendix A.

1. **Changing the proposed planning scheme amendment**
   1. The local government may make changes to the proposed planning scheme amendment or propose conditions the Minister or Chief Executive may consider imposing.
   2. The local government must ensure any changes made to the proposed planning scheme amendment continue to appropriately integrate and address relevant state interest/s, including those identified in a state interest review.
   3. Where a change results in a version of the proposed planning scheme amendment that is significantly different (having regard to the definition in the Minister’s Guidelines and Rules (MGR), including reference to schedule 2 of the MGR) to the version released for public consultation, the local government must restart the consultation process as outlined in Part C.
   4. However, the Chief Executive may determine that Section 5.3 does not apply for a change that is significantly different, if the change addresses an issue raised in submissions or addresses a matter raised during state interest review.
   5. At any time the Chief Executive may consider giving to the local government an amended notice about the process for amending the planning scheme, in accordance with section 18(3)(b) of the Act.

### Part C – Process for amending the planning scheme

Unless stated otherwise, the process described in this Part C is to be undertaken in the order in which it is prescribed in Table 2. The proposed planning scheme amendments will be informed by the steps taken under Part A. This does not preclude the need for steps to be repeated should changes be made to the proposed amendment, as provided for in Part B.

**Table 2:** **Process for amending the planning scheme**

| **1. Step No.** | **2. Summary of action/s** | **3. Specific action/s** | **4. Entity responsible for action/s** | **5. Timeframes[[4]](#footnote-5)** |
| --- | --- | --- | --- | --- |
| **State interest review (may occur concurrently with public consultation)** | | | | |
| Step 1 | State interest review of proposed amendment | Undertake state interest review, and consideration of the proposed amendment. In undertaking the state interest review, State agency consideration of the effect of the amendment on state interests may be sought. | <Minister> or <Chief Executive>  Delegate:  [Chief Executive may list specific department officer/s, where appropriate] | Commencing on the day after the Chief Executive gives notice to the local government under Section 18(3) of the Act |
| Step 2 | State agency briefing | The department facilitates a meeting with the local government, and invited State agencies identified as having state interests relevant to or potentially affected by the proposed amendment. | Chief Executive  Delegate:  [Chief Executive may list specific department officer/s, where appropriate] | Within 5 days from the commencement of Step 1 |
| Step 3 | Outcome of the state interest review | Local government provided with a notice of the outcome of the state interest review. | <Minister> or <Chief Executive>  Delegate:  [Chief Executive may list specific department officer/s, where appropriate] | Within <20, 30 or 40> days from the commencement of Step 1 |
| **Public consultation (may occur concurrently with state interest review)** | | | | |
| Step 4 | Public consultation | Local government undertakes public consultation in accordance with the requirements outlined in Part B, sections 3.1 to 3.3 and 4 of this notice.  Note – Public consultation may be carried out at the same time as the state interest review. | Local government  Delegate:  [Local government may list specific local government officer/s, where appropriate] | The consultation period is a minimum 20 business days after the day the last public notice is published in the local government area |
| **Considering submissions and approval to adopt** | | | | |
| Step 5 | Local government gives notice | Local government considers feedback from the state interest review and public consultation and gives notice to the <Minister> or <Chief Executive> requesting approval to adopt the proposed amendment.  This request must include a copy of the public consultation report, provided to the Minister in accordance with the requirements outlined in Part B, section 3 of this notice and the Chief Executive and may also include proposed conditions for the <Minister> or <Chief Executive> to consider imposing. | Local government  Delegate:  [Local government may list specific local government officer/s, where appropriate] | Within <30, 75 or 150> days from the end of Step 3 or Step 4, whichever is the later. |
| Step 6 | Consideration for approval to adopt | The <Minister> or <Chief Executive> considers the request for approval to adopt the proposed planning scheme amendment and gives notice to the local government stating whether the proposed amendment may:   1. be adopted, with or without conditions; or 2. not be adopted and the reasons why. | <Minister> or <Chief Executive>  Delegate:  [Chief Executive may list specific department officer/s, where appropriate] | Within <5, 10 or 20> days from the end of Step 5 |
| **Local government to adopt** | | | | |
| Step 7 | Local government consideration to adopt | The local government decides to either:   1. adopt the proposed planning scheme amendment in accordance with a notice given by the <Minister> or <Chief Executive> under Step 6; or 2. not proceed with the proposed planning scheme amendment.   After the planning scheme is amended, the local government must publish a public notice about amending the planning scheme. | Local government | None |
| Step 8 | Local government provides public notice and copy of planning scheme amendment to the Chief Executive | The local government must give the Chief Executive a copy of the public notice about the decision made by the local government regarding the adoption of the planning scheme amendment and if made, a certified copy of the planning scheme amendment. | Local government  Delegate:  [Local government may list specific local government officer/s, where appropriate] | Within 10 business days of publishing the public notice |

**Dated**

**Chief Executive**

**<Department administering the Act>**

## Appendix A: Local government communications strategy

<Attach communications strategy, in accordance with Part B of this notice>

1. Where the functions and powers of the Chief Executive under this notice may be appropriately performed or exercised by an officer in Planning Group in the Department, this notice includes the delegation of the Chief Executive. [↑](#footnote-ref-2)
2. Early engagement with State agencies may lead to the State agency writing to the department to:

   provide preliminary advice on the proposed planning scheme amendment; and/or

   advise they wish to opt out of the state interest review for the proposed planning scheme amendment (Step 1 of Table 2, Part C). [↑](#footnote-ref-3)
3. Business day [↑](#footnote-ref-4)
4. Timeframes for steps in the process may be tailored based on the scope, risk and complexity of the proposed amendment. [↑](#footnote-ref-5)