



14th April 2023

Planning Scheme Regulations 2023 Review

The Property Council welcomes the opportunity to comment on the exposure draft of amendment regulations and discussion paper, *Environmental Protection Amendment Regulations 2022*. Under the existing regulations, all local and regional planning schemes must be referred to the Environmental Protection Authority (EPA) for a determination on whether the scheme should be assessed under Part IV of the *Environmental Protection Act 1986* (EP Act). As a result, many planning schemes are currently being referred to the EPA which ultimately do not require assessment, creating delays in decision making processes.

The Property Council is generally supportive of the proposed changes to the EP Act, however, it believes a bolder reform agenda would deliver better red-tape reduction and mitigate against future delays. The proposal to reduce the number of planning schemes that are required to be assessed by the EPA is a positive step forward in streamlining decision making on planning matters, but the scope of changes should be expanded to all amendments that do not have significant impacts to the environment.

In addition, the Property Council seeks clarification on some of the proposed amendments to the Regulations.

The Property Council of Australia

The Property Council of Australia is the peak industry body representing the whole of the property industry. In Australia, the Property industry employs more than 1.4 million Australians and shapes the future of our communities and cities.

As industry leaders we support smarter planning, better infrastructure, sustainability, and globally competitive investment and tax settings which underpin the contribution our members make to the economic prosperity and social well-being of Australians.

The Property Council WA membership consists of more than 300 member companies. They are architects, urban designers, town planners, builders, investors and developers. Our members conceive of, invest in, design, build and manage the places that matter most – our homes, retirement living communities, shopping centres, office buildings, education, research and health precincts, tourism and hospitality venues.

This submission is informed by many of the Property Council's key member representatives and expert committee members.

Expanding exemptions

The Property Council is supportive of the proposed amendments to the EP Act. Streamlining decision making on planning matters and removing unnecessary steps in the planning system supports project feasibilities and enable the development community to deliver projects more affordably.

The Property Council believes the expanding the remit of the reforms to capture a broader range of instances where EPA engagement is not required will further increase efficiency, while not triggering any adverse outcomes.

The proposed changes only relate to minor amendments and will have a limited impact on efficiency. The Property Council believes that the changes would be more meaningful if the scope was expanded to include all amendments that do not have significant impacts to the environment. If the recommendation to limit EPA reviews to significant projects is adopted, the Property Council recommends that criteria or a definition of 'significant' is introduced to the legislation.

The EPA currently has multiple opportunities to assess a proposed amendment. Members have provided examples of sites which concurrently run a Metropolitan Region Scheme (MRS) and Town Planning Scheme (TPS) amendment. Whilst the EPA may not decide to assess the MRS amendment, they will later assess the TPS, creating uncertainty within the process and to the outcome of the amendments.

The Property Council recommends that the EPA should only have one chance to review an amendment proposal. This will help to streamline the decision making on planning matters, whilst also helping to strengthen applicant's confidence in the process. Equally, if the EPA determines not to assess the MRS amendment, then the associated concurrent Local Planning Scheme (LPS) amendment should be exempt from referral.

Regulation 43C – Local Planning Schemes

Minor amendment – s.43C(a)

The discussion paper states that provision s.43C(a) prescribes, as a class, minor amendments to the local planning scheme.

The Property Council seeks clarification on the definition of "minor amendment". The Planning and Development Act 2005 (P&D Act) does not define a minor amendment to a LPS, with minor amendments only applying to Region Schemes.

The Property Council questions whether this should reference "basic amendment", which is defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*. If it is the intention of the paper that the definition of basic amendment be applied to what is referred to as a minor amendment in the provision, then this term will need to be altered to maintain consistency. It is also noted that this would also apply to provisions s.43C(b) and s.43C(c).

The Property Council would support the use of the "basic amendment" definition as defined within the P&D Act, to be applied to s.34C(a), noting that this would then include amendments to scheme maps to make them consistent with an approved structure plan by updating the zonings. This consistent definition would streamline the process of normalising structure plans into local planning schemes.

If it is not the intent that "minor amendment" and "basic amendment" share the same definition, then changes to scheme maps to make the zonings consistent with approved structure plan zones which have been developed should be considered as a prescribed class.

Amendments to rezone urban land that is already fully developed – s.43C(h)

The Property Council seeks clarification on the reference to "existing building footprints" contained under provision s.43C(h).

The Property Council notes that a proposal to rezone a lot should not have any consideration of specific future development or whether the proposed redevelopment would be within the existing building footprint if the lot is already fully developed. Development proposals and rezoning proposals should be treated separately.

For example, a lodged proposal might seek to rezone a lot from 'local centre' to 'residential.' If the local centre site was already developed, the questions of whether the future residential development would be within the existing building footprint shouldn't have any bearing on the rezoning and whether it should be assessed by EPA.

The Property Council seeks further clarification on this reference.

Additionally, the Property Council believes that this provision should be expanded to include amendments relating to the introduction/removal of 'additional uses' or 'restricted uses' for specific sites.

Support for inclusion of s.43B(d) and s.43C(k)

The Property Council supports the inclusion of provisions s.43B(d) and s.43C(k), which relate to Region and Local Planning Schemes being amended to capture transfer of planning authority from the Metropolitan Redevelopment Authority back to the Local Government Authority (LGA) or the Western Australian Planning Commission (WAPC).

The inclusion of these provisions will ensure that the extensive planning work undertaken and used by landowners as a basis for feasibility and investment decisions is not revisited/reinvented, which is particularly important for complex and unfinished projects (i.e. Wungong Project Area).

Next Steps

If you require further information or clarification, please contact Lindsay Duncan, WA Policy Advisor at 0404 450 881 or lduncan@propertycouncil.com.au.

Yours sincerely,



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