



Statutory Guideline 03/09

Declared master planned area structure plans

Outlining the process for preparing and making a structure plan for a declared master planned area

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About this guideline

The purpose of this guideline

This guideline is prepared under Section 145 of the *Sustainable Planning Act 2009* (SPA). Section 145 of the SPA provides for the Minister to make a guideline to outline the process for preparing and making a structure plan for a declared master planned area (DMPA).

This guideline provides the minimum actions required for preparing and amending a structure plan for a DMPA. The guideline does not limit the use of additional actions to achieve the desired outcome, provided such actions do not conflict with those stated in this guideline. It should be noted that the Minister has the ability to permit local governments not to undertake certain of these minimum actions, in particular circumstances.

While this guideline prescribes the processes for preparing and making a structure plan, it does not deal with the drafting of a structure plan.

How to use this guideline

This guideline provides step by step instruction on the processes involved for preparing a structure plan and making a structure plan. The process for making a structure plan includes amending a planning scheme to include a structure plan.

In accordance with Section 147 of the SPA, the structure plan is valid if it is made in substantial compliance with this guideline so long as any non-compliance has not:

- (a) adversely affected the awareness of the public of the existence and nature of the proposed structure plan; or
- (b) restricted the opportunity of members of the public to make properly made submissions under the guideline; or
- (c) restricted the opportunity of the Minister to consider whether any state interests would be adversely affected.

Definitions

Terms used in this guideline have the meaning given in the SPA.



Stages in development of a structure plan

Stage 1—Preparation

Step 1.

- 1.1. The local government must prepare the proposed structure plan in accordance with Section 141 of the SPA¹.
- 1.2. A participating agency must, within the limits of the laws it administers and the policies that are reasonably identifiable as policies it applies, participate in the master planning carried out by the local government to make a structure plan for a DMPA.
- 1.3. The coordinating agency must coordinate the involvement of the participating agencies in the master planning process required to make a structure plan for a DMPA.
- 1.4. During the development of the structure plan, the local government must consult with significant landowners and stakeholders of the relevant master planned area about the proposed outcomes of the structure plan.
- 1.5. Subject to Step 1.7(a), the local government and the coordinating agency must agree on the proposed structure plan.
- 1.6. If the local government and the coordinating agency can not agree on the proposed structure plan, the Minister may:
 - (a) establish a committee to prepare a report on the matter; or
 - (b) obtain the written views of the local government and the coordinating agency.
- 1.7. Having considered the report or written views of the parties under Step 1.6 the Minister may:
 - (a) decide the matter and either:
 - (i) direct the local government to proceed to Step 2; or
 - (ii) take any other action the Minister considers appropriate in the circumstances; or
 - (b) decide not to take any further action.

¹ Under Section 777(3) of the SPA a proposed structure plan that will amend a planning scheme made under the repealed IPA need not reflect the standard planning scheme provisions.



Stage 2—Review

Submission of proposed structure plan

Step 2.

- 2.1. After preparing the proposed structure plan, the local government must write to the Minister and request the Minister's approval to publicly notify the proposed structure plan.
- 2.2. The request to the Minister must include:
 - (a) an electronic copy and a hard copy of the proposed structure plan; and
 - (b) a statement about the extent and outcomes of any consultation undertaken with the coordinating agency, participating agencies, significant landowners and stakeholders for the master planned area in preparing the proposed structure plan; and
 - (c) a statement about how the proposed structure plan reflects State planning instruments which apply to the area; and
 - (d) any background studies or reports the local government considers are reasonably required for a state interest review of the proposed structure plan.

Step 3.

- 3.1. After receiving a request to publicly notify a structure plan, the Minister must consider whether the proposed structure plan will have an adverse effect on State interests and advise the local government in writing:
 - (a) that the local government may commence public notification of the proposed structure plan with or without conditions; or
 - (b) the local government may not commence public notification of the proposed structure plan.
- 3.2. The Minister may seek advice from any other party, including participating agencies or other State entities, about the proposed structure plan.
- 3.3. If the Minister seeks the advice of any other parties about the proposed structure plan those parties must respond to the Minister in writing within 40 business days of receiving the proposed structure plan.
- 3.4. If a party mentioned in Step 3.3 does not respond within 40 business days, the party's issues will be taken to have been appropriately reflected or addressed in the proposed structure plan.
- 3.5. The Minister may extend the timeframe in Step 3.3 if the Minister is satisfied that an extension is appropriate.
- 3.6. If the Minister does not approve public notification of the proposed structure plan the Minister must advise the local government in writing:
 - (a) the reasons why public notification was not approved; and
 - (b) any remedial action required for the proposed structure plan; and
 - (c) the timeframes in which the action must be undertaken.



Public consultation

Step 4.

- 4.1. After receiving written approval to commence public notification under Step 3, the local government must:
 - (a) comply with any conditions imposed by the Minister; and
 - (b) commence public notification of the proposed structure plan.
- 4.2. The local government must carry out public consultation about the proposed structure plan for a period (the *consultation period*) of at least 30 business days.
- 4.3. The public notification must involve (as a minimum) placing a public notice at least once in a newspaper circulating in the local government's area, stating:
 - (a) the name of the local government; and
 - (b) the purpose and general effect of the proposed structure plan; and
 - (c) a description of the land or area to which the proposed structure plan is intended to apply; and
 - (d) contact details including a telephone number for information about the proposed structure plan; and
 - (e) that the proposed structure plan is available for inspection and purchase; and
 - (f) that written submissions may be made by any person to the local government; and
 - (g) the period during which submissions may be made, which must be at least 30 business days; and
 - (h) the requirements for making a properly made submission.
- 4.4. For the whole of the consultation period:
 - (a) the local government must display a copy of the notice mentioned in Step 4.3 in a conspicuous place in the local government's public office; and
 - (b) the local government must have available for inspection and purchase during all of the consultation period a copy of the proposed structure plan.

Step 5.

- 5.1. The local government must consider all properly made submissions² about the structure plan and prepare a report (the *submissions report*) explaining how it has dealt with the submissions received.

Step 6.

- 6.1. The local government must provide a copy of the submissions report, or the part of the report relating to the matter about which the submission was made, to each principal submitter and the coordinating agency within 10 business days of completion of the report.

After public consultation

Step 7.

- 7.1. The local government must decide within 20 business days of the coordinating agency receiving the submissions report whether to:
 - (a) proceed with the proposed structure plan; or
 - (b) proceed with the proposed structure plan with amendments; or
 - (c) not proceed with the proposed structure plan.

² The requirements for a properly made submission are set out in the definition of properly made submission in Schedule 3 of SPA.



- 7.2. The coordinating agency must decide within 20 business days of the coordinating agency receiving the submissions report whether to:
 - (a) proceed with the proposed structure plan; or
 - (b) proceed with the proposed structure plan with amendments; or
 - (c) not proceed with the proposed structure plan.
- 7.3. The local government and coordinating agency must agree to any amendments to the proposed structure plan.
- 7.4. If the local government and the coordinating agency can not agree on any amendments to the structure plan, the Minister may:
 - (a) establish a committee to prepare a report on the amendments; or
 - (b) obtain the written views of the local government and the coordinating agency.
- 7.5. Having considered the report or written views of the parties under Step 7.4 the Minister may:
 - (a) decide whether the structure plan should be amended and either:
 - (a) direct the local government to proceed to Step 8.1; or
 - (b) take any other action the Minister considers appropriate in the circumstances; or
 - (b) decide not to take any further action.
- 7.6. If the local government or coordinating agency decides not to proceed with the proposed structure plan, that entity must advise the Minister in writing within 10 business days of the decision and the reasons for the decision.

Stage 3—Approval and adoption

Approval

Step 8.

- 8.1. After the local government and coordinating agency decide to proceed with the proposed structure plan (with or without amendment), the local government must write to the Minister requesting approval to adopt the proposed structure plan as an amendment to its planning scheme.
- 8.2. In its request to the Minister, the local government must give to the Minister:
 - (a) the proposed structure plan clearly identifying any changes to the proposed structure plan made following public consultation; and
 - (b) the submissions report.

Step 9.

- 9.1. Where the proposed structure plan has been amended following public consultation, the Minister must reconsider whether or not State interests would be adversely affected by the proposed structure plan.

Step 10.

- 10.1. After considering the proposed structure plan the Minister must advise the local government whether the local government may adopt the proposed structure plan as an amendment to its planning scheme, with or without conditions.



- 10.2. The Minister must also advise the local government which State planning instruments the Minister is satisfied have been appropriately reflected in the proposed structure plan.

Adoption

Step 11.

- 11.1. The local government must decide to either adopt the proposed structure plan as an amendment to its planning scheme or not to proceed with the proposed structure plan.
- 11.2. If the local government decides not to proceed it must:
 - (a) place a notice in a local newspaper, on the local government's website and in the gazette stating:
 - (i) the local government name, and
 - (ii) the decision and the reason for not proceeding; and
 - (b) provide the Minister with a copy of the notice within 10 business days after making the decision.
- 11.3. If the local government decides to adopt the structure plan as an amendment to its planning scheme, the local government must:
 - (a) comply with any conditions imposed by the Minister; and
 - (b) state in the structure plan the advice given by the Minister as to whether the structure plan appropriately reflects any State planning instruments.

Amendment of planning scheme

Step 12.

- 12.1. As soon as practicable following adoption, the local government must place a public notice informing the public that the structure plan has been adopted as an amendment to its planning scheme.
- 12.2. The notice must be placed at least once in a newspaper circulating in the local government area and in the gazette, stating:
 - (a) the name of the local government; and
 - (b) when the structure plan was adopted as an amendment to the planning scheme; and
 - (c) the purpose and general effect of the structure plan; and
 - (d) that a copy of the structure plan is available for inspection and purchase.
- 12.3. The local government must also, on the day it publishes the notice or as soon as practicable after that, give the chief executive of the Department of Infrastructure and Planning:
 - (a) a copy of the notice; and
 - (b) five certified copies of the structure plan; and
 - (c) one electronic copy in the format specified by the Department of Infrastructure and Planning.



Ministerial notice excusing compliance with steps required by this guideline

With the exception of Steps 1.1, 4, 5, 10, 11 and 12 of this guideline, the Minister may by written notice advise a local government that it need not undertake steps otherwise required by this guideline.

The Minister may only give a written notice to the local government if the Minister is satisfied that:

- (a) significant planning work has been undertaken by the local government (or an entity working on behalf of the local government) that is relevant to the preparation of a structure plan; and
- (b) requiring the local government to complete the specified steps in this guideline would:
 - (i) result in a repetition of process; or
 - (ii) delay the master planning of the DMPA where there is an urgent need for the development of the area.


When issuing a written notice varying the steps of this guideline, the Minister may give any direction or impose any condition on the local government that the Minister considers necessary in the circumstances to progress preparation of the structure plan.

The written notice to local government must state the following:

- (a) the name of the relevant local government;
- (b) the master planned area;
- (c) contact details including a telephone number;
- (d) the steps of this guideline that the local government is not required to undertake;
- (e) the reasons for the Minister's decision.

Where the Minister advises a local government that steps identified within this guideline need not be undertaken, the Minister must, as soon as practicable, publish a notice at least once in a newspaper circulating in the local government's area and on the Department of Infrastructure and Planning's website. The notice must state the following:

- (a) that the Minister has given a notice under this guideline advising the local government that certain steps of this guideline do not apply to the local government;
- (b) a description of the master planned area to which the advice relates;
- (c) the steps of this guideline that the local government is not required to undertake;
- (d) the reasons for the Minister's decision.



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