

# Chief Executive Notice

## Pursuant to section 18 of the *Planning Act 2016*

### **Torres Shire Council – Notice about the process for making a planning scheme under section 18(3) of the *Planning Act 2016***

In accordance with section 18(4) of the *Planning Act 2016* (Planning Act), the chief executive has considered the Minister's Guidelines and Rules when preparing this notice under section 18(3)(a) of the Planning Act.

- Notice was given by Torres Shire Council under section 18(2) of the Planning Act on 29 September 2017.
- Under section 18(6) of the Planning Act, the council must make the planning scheme by following the process in this notice.
- Unless stated otherwise, the process described in Appendix 1 of this notice is to be undertaken in the order in which it is prescribed.
- A communications strategy that the local government must implement about the instrument is also described in this notice.

#### ***Requesting information***

- The chief executive or Minister for Planning, as relevant to the process, may at any time, give the local government a notice requesting further information.
- For the purpose of requesting further information, the chief executive includes the Planning Group Deputy Director-General, Executive-Director, Director and Manager.

#### ***Managing timeframes***

- The Minister for Planning, the chief executive or council may pause a timeframe (provided it is not during public consultation) for an action for which they are responsible by giving notice to any other party in the relevant step of the process stating how long the timeframe will be paused and a date upon which the timeframe will restart.
- If a notice to pause a timeframe is issued, the process is paused from the day after the notice is given until the date stated in the notice, unless the notice is withdrawn by the party that gave the notice.
- If the pause a timeframe notice is withdrawn, the process restarts from the day after the party gives the notice to withdraw the notice.
- For the purpose of pausing a timeframe, the chief executive includes the Planning Group Deputy Director-General, Executive-Director, Director and Manager.

#### ***Public consultation***

In accordance with the Planning Act, council is required to:

- Publish at least 1 public notice about the proposal to make the planning scheme
- Keep the instrument available for inspection and purchase for a period (the consultation period) stated in the public notice of at least 40 business days after the day the public notice is published in a newspaper circulating in the local government area.

- Ensure that the public notice states that any person may make a submission about the instrument to the local government within the consultation period.
- Consider all properly made submissions about the proposed planning scheme
- Notify persons who made properly made submissions about how the local government dealt with the submissions.
- Give the Minister a notice containing a summary of the matters raised in the properly made submissions and stating how the local government dealt with the matters.

### ***Communications Strategy***

The proposed communications strategy has the aim to enable meaningful engagement on the proposed Torres Shire Planning Scheme to address key planning issues and challenges in the Torres Shire.

The following requirements apply:

- Council is required to comply with the minimum public consultation standards prescribed in the Planning Act.
- Council is required to undertake consultation generally in accordance with the Torres Shire Planning Scheme, Communications & Engagement Plan, August 2017 (the communications strategy).
- Council is required to make the communications strategy available to the community.
- Council is required to document its public consultation and prepare a report on its public consultation to the Minister for Planning when submitting the proposed planning scheme for adoption.

## Appendix 1

### Tailored Process – Torres Shire Council – Notice about the process for making a planning scheme under section 18(3) of the Planning Act 2016 (the Act)

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 1</b>	Local government led initiative	Refer specific actions	Prepare final communication and community engagement plan.	Local Government	Completed
<b>Step 2</b>	Local government led initiative	Refer specific actions	The council to resolve to formally notify the Chief Executive of DILGP that council propose to prepare a draft planning scheme under section 18 of the Planning Act 2016.	Local Government	Completed
<b>Step 3</b>	Local government led initiative	Refer specific actions	The council commissions the preparation of planning studies to inform the content of the new planning scheme. The council to review planning studies.	Local Government	3 months
<b>Step 4</b>	Planning and preparation	Local government consults with DILGP	The local government must consult with the department, while preparing the draft planning scheme or draft planning scheme amendment.	Local Government	12 months
<b>Step 5</b>	Planning and preparation	Local government prepares a draft planning scheme	The local government must prepare a draft planning scheme.	Local Government	12 months

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 6</b>	State interest review	Local government provides notice to commence the State interest review (SIR) process	<p>Council resolves to endorse draft planning scheme and submit for state interest review and approval to go to public consultation.</p> <p>The local government must give a notice to the state government to commence the state interest review that includes—</p> <ol style="list-style-type: none"> <li>1. An electronic copy of the proposed planning scheme in the format identified by the department.</li> <li>2. A written statement addressing the state interests in the relevant regional plan and SPP which includes—               <ol style="list-style-type: none"> <li>a) how the state interests are integrated in the planning scheme;</li> <li>b) reasons why any state interests have not been not integrated in the planning scheme; and</li> <li>c) any state interests that are not relevant.</li> </ol> </li> <li>3. A written statement about how the key elements of a planning scheme mentioned in section 16(1) of the Act have been addressed and if the planning scheme is consistent with the regulated requirements.</li> <li>4. A proposed communications strategy if one has not been given with the notice under section 18(2) of the Act.</li> <li>5. Any background studies or reports that informed the preparation of the planning scheme, including any strategic study or report, or review required under section 25(1) of the Act.</li> <li>6. Any natural hazards, risk and resilience evaluation report prepared having regard to the SPP.</li> <li>7. Any draft feasible alternatives report prepared for a planning change made to reduce the risk of natural hazards, including details of the potentially affected premises and any relevant supporting information.</li> <li>8. Shapefiles of any mapping.</li> <li>9. A summary of consultation with state agencies and the outcome of the consultation.</li> <li>10. Any other information considered relevant by the local government.</li> </ol>	Local Government	Within 3 months of completing Step 4



Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 7</b>	State interest review	Chief Executive undertakes the SIR and considers key Act & Regulation matters	The chief executive must undertake a state interest review. As part of the state interest review, the chief executive must consider if the proposed planning scheme— a) advances the purpose of the Act; b) is consistent with section 16(1) of the Act; c) is consistent with the regulated requirements prescribed in the Planning Regulation; d) is well drafted and clearly articulated; and e) accords with the result of any strategic study or report, or review required under section 25(1) of the Act.	Chief Executive including Planning Group: Deputy-Director General Executive Director Director Manager	Concurrent with state interest review, to commence within 5 days of receiving the notice to commence to state interest review
<b>Step 8</b>	State interest review	Chief Executive advises of changes required	The chief executive may give notice to the local government advising of any changes— a) to the proposed planning scheme required to address state interests b) to the proposed communications strategy as a result of the state interest review.	Chief Executive including Planning Group: Deputy-Director General Executive Director Director Manager	During the state interest review period (60 business days from commencement of the state interest review)
<b>Step 9</b>	State interest review	Chief Executive provides outcomes of SIR	The chief executive must give notice to the local government of the outcome of the state interest review. The chief executive may include conditions that apply to the proposed planning scheme, including the timing on when the conditions must be complied with.	Chief Executive including Planning Group: Deputy Director-General	60 business days from commencement of the state interest review
<b>Step 10</b>	Local government led initiative	Refer specific actions	The council makes required changes resulting from SIR and/or conditions and prepares planning scheme for public consultation	Local Government	Within 6 months of Chief Executive providing outcomes of SIR

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 11</b>	Local government led initiative	Refer specific actions	Council resolves to endorse the draft planning scheme for public consultation.	Local Government	Nil
<b>Step 12</b>	Public consultation	Local government commences public consultation	<p>The local government must undertake public consultation in accordance with:</p> <p>a) the public notice requirements prescribed in the Act, Schedule 2, definition of public notice, paragraph (b);</p> <p>b) Schedule 4 of MGR; and</p> <p>c) the communications strategy, including any amended strategy requested by the Minister/ chief executive.</p> <p>The local government must publish a public notice about the consultation of the planning scheme. It must state that any person may make a submission about the instrument to the local government within the consultation period.</p> <p>The local government must keep the instrument available for inspection and purchase for the consultation period in accordance with section 18(5) of the Act.</p>	Local Government	The consultation period must be a minimum period of 40 business days, commencing after the day the public notice is published in a newspaper circulating in the local government area.
<b>Step 13</b>	Considering submissions	Local government considers all properly-made submissions	The local government must consider all properly made submissions about the proposed planning scheme.	Local Government	Within 3 months of the close of public consultation
<b>Step 14</b>	Changing the proposed instrument	Local government makes changes as a result of submissions, changed circumstances, etc	<p>The local government may make changes to the proposed planning scheme to:</p> <ul style="list-style-type: none"> <li>• address issues raised in submissions;</li> <li>• amend a drafting error; or</li> <li>• address new or changed planning circumstances or information.</li> </ul>	Local Government	Within 3 months of the close of public consultation
<b>Step 15</b>	Changing the proposed instrument	Local government ensures changes made still meet relevant state interests	The local government must ensure any changes made to the proposed instrument continue to appropriately integrate and address relevant state interests, including those identified in a state interest review.	Local Government	Within 4 months of the close of public consultation

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 16</b>	Changing the proposed instrument	Local government restarts or repeats consultation due to scheme changes	<p>If the local government changes the proposed planning scheme and the change results in the proposed scheme being significantly different (having regard to schedule 2 of the MGR) to the version released for public consultation, and public consultation has started or been completed, the local government must restart or repeat the public consultation (as per steps 14 to 19 above) required for the proposed scheme with the changes made.</p> <p>If re-consultation is required, as a result of changes which result in the instrument being significantly different, the local government may choose to limit the public consultation to only those aspects of the proposed planning scheme or proposed amendment that have changed.</p>	Local Government	As relevant
<b>Step 17</b>	Local government led initiative	Refer specific actions	<p>The council prepares submissions review report, including recommendations.</p> <p>The council resolves to endorse the submissions review report and any changes to the draft planning scheme as a result of submissions.</p> <p>Council resolves to endorse the draft planning scheme and request Minister approval to adopt.</p>	Local Government	Within 6 months of the close of public consultation
<b>Step 18</b>	Considering submissions	Local government notifies submitters about submissions consideration process	The local government must notify persons who made properly made submissions about how the local government has dealt with the submissions.	Local Government	Within 20 business days of endorsing the submission review report

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 19</b>	Endorsement	Local government requests approval to adopt the planning scheme	<p>The local government must give the state government a notice to request adoption of the planning scheme that includes—</p> <ul style="list-style-type: none"> <li>a) an electronic copy of the amended planning scheme, clearly identifying any change that has been made to the proposed amendment since the state interest review</li> <li>b) a written consultation report</li> <li>c) the reasons why the local government doesn't consider the proposed amendment to be significantly different from the version for which public consultation has been undertaken.</li> </ul>	Local Government	Within 10 business days of notifying submitters
<b>Step 20</b>	Endorsement	Minister provides approval to adopt	<p>The Minister must give the local government a notice stating—</p> <ul style="list-style-type: none"> <li>a) if the local government may adopt the proposed planning scheme; and</li> <li>b) the Minister's conditions, if any, that apply to the proposed planning scheme; or</li> <li>c) if the proposed planning scheme may not be adopted, and the reasons why it may not be adopted.</li> </ul>	Minister	Within 40 business days of receiving the notice from local government requesting adoption of the planning scheme
<b>Step 21</b>	Local government led initiative	Refer to specific actions	The local government makes any necessary changes to the draft planning scheme resulting from Ministerial conditions and prepares planning scheme for adoption	Local Government	Within 60 business days of approval to adopt
<b>Step 22</b>	Adoption	Local government decides to adopt scheme	The local government must decide to adopt or not proceed with the proposed planning scheme.	Local Government	Within 20 business days of any making necessary changes



Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 23</b>	Adoption	Local government publicly notifies adoption	<p>If the local government decides to adopt the proposed planning scheme, the local government must publish a public notice in accordance with the requirements of the Act, Schedule 2, definition of public notice, paragraph (c) that must state—</p> <ul style="list-style-type: none"> <li>a) the name of the local government;</li> <li>b) the decision made by the local government about the planning scheme;</li> <li>c) the date the planning scheme was adopted;</li> <li>d) the commencement date for the planning scheme (if different to the adoption date);</li> <li>e) the title of the planning scheme;</li> <li>f) if the planning scheme only applies to part of the local government area, a description of the location of that area;</li> <li>g) the purpose and general effect of the planning scheme; and</li> <li>h) where a copy of the planning scheme may be inspected and purchased.</li> </ul>	Local Government	Within 30 business days of resolving to adopt
<b>Step 24</b>	Adoption	If local government does not adopt, local government publicly notifies decision not to adopt	<p>If the local government decides not to proceed with the planning scheme, the local government must publish a public notice in accordance with the requirements of the Act, Schedule 2, definition of public notice, paragraph (c) that must state—</p> <ul style="list-style-type: none"> <li>(a) the name of the local government;</li> <li>(b) the decision made by the local government about the amendment; and</li> <li>(c) the reasons for not proceeding with the planning scheme.</li> </ul>	Local Government	Within 20 business days of decision not to proceed

Step	Type of action	Summary of action	Specific actions	Entity responsible for task	Recommended timeframe (business days)
<b>Step 25</b>	Adoption	Local government provides public notice & copy of scheme to DILGP	The local government must give the chief executive a copy of the public notice; and if adopted, a certified copy of the planning scheme including— a) a certified copy of the instrument; b) a copy of all electronic planning scheme spatial data files (mapping) relevant to the instrument.	Local Government	Within 20 business days of the public notice being published.

Dated this **26** day of **October** 2017



**Frankie Carroll**  
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 Department of Infrastructure, Local Government and Planning