

IDAS IMPLEMENTATION NOTES

Note 25

Zoning closed roads under transitional planning schemes

The former *Local Government (Planning & Environment) Act 1990* (P&E Act) provided that a closed road could be appropriately zoned by Order in Council. IPA planning schemes provide for how development on roads should be assessed and how closed roads should be dealt with. However, there is no provision in the IPA for the zoning of closed roads in transitional planning schemes, and in most cases no provision was made in the schemes themselves.

Section 6.1.10A of IPA provides for the zoning of closed roads in transitional schemes. The Governor in Council may, by gazette notice, zone a road or part of a road which has been closed.

The Governor in Council must be satisfied that -

- the land should be included in a zone that is consistent with the zoning of adjoining land in the planning scheme;
- the proposed zoning would not substantially affect the public in an adverse way; and
- the local government agrees to the zoning.

The notice takes effect either on gazettal of the notice or on the closure of the road, whichever is the later. When the notice takes effect, it amends the planning scheme as if the process in schedule 1 of the IPA had been followed.

It is reiterated that the zoning of closed roads by way of gazette notice is a transitional arrangement only. Local governments will be expected to make permanent provision for dealing with development on closed roads in their IPA planning schemes.

The procedure for zoning of closed roads by gazette notice is as follows -

1. The Department of Natural Resources and Water (NRW) investigates an application to close a road and invites comments about the proposal from the relevant local government;
2. If the local government requires the land to be zoned by gazette notice it should -
 - respond to NRW as appropriate, including advice that the local government will ask DLGPSR to have the land zoned in a particular way;
 - advise DLGPSR in writing that it requires the land to be zoned in a particular way;
 - supply DLGPSR with sufficient information to satisfy the Governor that the land should be included in a zone consistent with that of adjoining land, and this zoning will not substantially affect the public in an adverse way;
 - forward to DLGPSR **two** (2) copies of the amendment sheet for the zoning.
3. NRW advises DLGPSR that the closure of the road has been gazetted or that the application has been refused.
4. DLGPSR undertakes the process for seeking Governor in Council approval and the gazettal of the notice.
5. When the notice appears in the Gazette, it amends the scheme as if the process in Schedule 1 of the IPA had been followed.

To contact us:

PO Box 15031 City East
QLD 4002
(07) 3237 1279
www.ipa.qld.gov.au

Because the process in schedule 1 of the IPA does not apply, there is no statutory requirement for copies of amended plans to be forwarded to DLGPSR. However, it is recommended local governments forward copies of the amendment sheets (required in (2) above) to DLGPSR for its records.

It should be noted that it is not mandatory for local governments to require a closed road to be zoned by way of gazette notice. Alternatively, and depending upon the circumstances, the local government may elect to use the schedule 1 process, or assess development on the land according to the provisions of its planning scheme and consequentially amend the scheme under s.6.1.34 of the IPA, or take no action.

Disclaimer

This publication has been compiled for your information. While DLGPSR believes this information will be of assistance to you, it is provided on the basis that you are responsible for making your own assessment of the topics discussed. DLGPSR expressly disclaims all liability (including but not limited to liability for negligence) for errors or omissions of any kind whatsoever or for any loss (including direct and indirect losses), damage or other consequence which may arise from your reliance on the material contained in this publication. This information is issued on the understanding that DLGPSR is not, through the issue of this information, giving any legal or other professional service. Readers are encouraged to seek independent advice if they have any concerns about the material contained in this publication.