

IDAS IMPLEMENTATION NOTES

Note 32

Local planning policies & transitional planning schemes

When the *Integrated Planning Act* (IPA) commenced all local planning policies under the former *Local Government (Planning and Environment) Act 1990* (P&E Act) were converted to 'transitional planning scheme policies'. However, any provisions inconsistent with Integrated Development Assessment System (IDAS) did not become part of the transitional planning scheme policies for the local government's area [s6.1.13 & 14 of the IPA].

Transitional planning scheme policies are deemed to be planning scheme policies for the local government's area until an IPA planning scheme is prepared [s6.1.15 of the IPA]. Therefore, transitional planning scheme policies are subject to the same requirements and restrictions as planning scheme policies under chapter 2 of the IPA [s6.1.16 - 22 of the IPA]. In particular, transitional planning scheme policies-

- (i) must support a local dimension of the planning scheme;
- (ii) may apply to all or part of the planning scheme area;
- (iii) are the only documents made by a local government that a planning scheme may apply, adopt or incorporate; and
- (iv) cannot regulate development on, or the use of, premises [s6.1.23(4) of the IPA].

1.0 Potential Problems

Local governments must ensure that transitional planning scheme policies are **not** being used to make development self-assessable or assessable. Development can only be made self-assessable or assessable by a planning scheme, schedule 8 of the Act, or under another Act. For example, if a transitional planning scheme policy purported to make buildings over a certain height impact assessable, it would be of no effect and unenforceable. If a local government wanted to make buildings over a certain height impact assessable the scheme would need to include appropriate provisions in this regard.

In addition, a transitional planning scheme policy cannot set development standards. For example, landscaping requirements for 'as-of-right' uses (self-assessable development) cannot be set by a transitional planning scheme policy. This is because transitional planning scheme policies are not 'applicable codes' for self-assessable development. Development standards for self-assessable development must be included in the planning scheme [s6.1.1 of IPA].

However, a transitional planning scheme policy may contain provisions indicating how requirements of the planning scheme may be satisfied. For example, the scheme may contain provisions establishing car-parking requirements. In this situation it would be acceptable for a transitional planning scheme policy to contain provisions relating to design characteristics for car-parking that would satisfy the requirements in the scheme.

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2.0 Conclusion

Transitional planning scheme policies cannot regulate development or create development requirements independently of the scheme. Local governments should review existing transitional planning scheme policies to ensure these are being properly used. Care should also be taken when amending or approving new transitional planning scheme policies for compliance with the Act.

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