

# Explanatory Guidelines

## Deemed Provisions Clauses 65A and 65B

### Requests for additional information for development applications accepted for assessment

These guidelines provide information and guidance on the implementation of clauses 65A and 65B of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. They are intended for use by both local government and applicants.

#### Purpose of clauses 65A and 65B and when do they apply

Clauses 65A and 65B apply to development applications that have been accepted for assessment under clause 63A. The clauses provide the local government with the ability to request additional information or material that is required to determine the application, as well as a process for such requests.

These requests are different to requests for further information or material under clause 63A, which relate to the information that is required to accept an application for assessment. Clauses 65A and 65B relate to information and material that is identified by the local government through the assessment process as being required to complete the assessment and determine a development application. These requests are often referred to as requests for further information and are part of the assessment process for a development application.

The clauses are intended to help make the development assessment process more streamlined, efficient and consistent.

#### What is the process for requesting further information?

After an initial assessment of a development application has been completed, the local government may determine that further information or material is required to complete the assessment and determine the application. The local government will send a written notice advising what further information or material is required and provide a timeframe for providing this information, which will be a minimum of 21 days, including weekends.

The applicant has seven days from the date of the written notice to advise the local government in writing if they agree to or refuse the request for further information. If no advice from the applicant is received within this timeframe, the request is taken to have been refused and the application will be determined based on the information available to the local government.

If an applicant agrees to a request, the local government will 'stop the clock' on the application. This means that the statutory processing timeframe for the application is paused. This pause will

commence on the day the applicant agrees to the request and conclude when the further information is received by the local government or the timeframe for providing the information expires, whichever occurs first.

## How many requests for further information can be made?

There is no limit on the number of requests for further information that can be made for applications which:

- are defined as complex
- require advertising under clause 64(1)(b). For further information on this clause please refer to the FAQ's found on the [LPS Regulations](#) website
- require a referral under clause 66 or
- where the applicant has provided further information or material on their own initiative and the request for further information relates to this further information or material.

For all other applications that do not meet any of the above criteria, only one request for further information can be made.

## What happens if an applicant doesn't provide sufficient information in response to an additional information request?

If the local government considers that insufficient information or material is provided in response to a further information request, the request has not been fulfilled. In such circumstances, the local government can seek further details without it being considered another request, however the 'stop the clock' does not extend beyond the period specified in the original notice.

Applicants are encouraged to contact the local government if anything in the notice requires clarification to ensure the timely provision of accurate and sufficient information.

## Do these clauses also apply to Development Assessment Panel (DAP) applications?

Clauses 65A and 65B also apply to development applications made under a local planning scheme that are determined by the DAP. Regulation 11(2) of the *Planning and Development (Development Assessment Panels) Regulations 2011* has been amended to reflect these new clauses.

The following additional steps in relation to clauses 65A and 65B must be completed by the local government for a DAP application:

- Provide the following information to the DAP Secretariat for any request for further information within three days of acceptance by the applicant:
  - A copy of the request.
  - The date the request was accepted.
- Provide the following information to the DAP Secretariat within seven days of the information being provided by the applicant or the last day of the period specified in the notice (where no information was given):
  - Any further information or material provided in response to the request that is submitted within the period specified in the request.
  - The date the above information or material was provided.
- Provide to the DAP Secretariat any further information or material given to the local government by an applicant on their own initiative within seven days of the applicant submitting this information.