



**Resource Planning and Development Commission**

## **Planning Advisory Note 10**

### **Subject: Draft Amendment and Combined Permit Application**

**Purpose:** To provide guidance on the process for consideration of a combined permit application made under s.43A - s.43M of the *Land Use Planning and Approvals Act 1993*.

#### **Background**

A person who requests a planning authority to amend a planning scheme may also request the planning authority to consider an application for a combined permit for a use or development that cannot be approved unless the planning scheme is amended.

Where a planning authority has decided to initiate a draft amendment, it may consider the application for a combined permit at the same time as the draft amendment in accordance with Division 2A of Part 3 of the *Land Use Planning and Approvals Act 1993* (the Act).

Although requests for an amendment to a planning scheme and combined permit remain discrete processes, Division 2A avoids duplication by combining the assessment time of what are normally two separate processes and allows the draft amendment and combined permit to be publicly exhibited together.

#### **Process**

A request to amend the planning scheme is considered under the normal requirements of Division 2 of Part 3 of the Act and a planning authority must decide to initiate the amendment before it considers the request for a combined permit.

The assessment process under Division 2A differs to a permit application made under s.57 or s.58 of the Act, as a planning authority assesses and determines the application for combined permit *before* the application is publicly exhibited.

A planning authority may grant the combined permit, either unconditionally or with such conditions or restrictions as the planning authority determines. The planning authority then forwards copies of the application for combined permit and any documents submitted with the application, the planning authority's decision on the combined permit application and the combined permit, if granted, to the Resource Planning and Development Commission (the Commission).

**Planning Advisory Notes are prepared by the Resource Planning and Development Commission to explain statutory provisions and provide guidance to planning authorities and others on the operation of the planning system.**

The draft amendment, the planning authority's decision on the permit application and the combined permit, if granted, are publicly exhibited together and relevant parties notified.

During the exhibition period, any person may make representations on the draft amendment, the combined permit, or both. The planning authority must consider all representations received, if any, and forward to the Commission at the same time as the report on the draft amendment under s.39 of the Act a copy of:

- all representations received; and
- a statement of the planning authority's opinion as to the merits of each representation, including in particular, its views on the need to modify its decision; or
- where no representations are received, a statement to that effect; and
- such recommendations as the planning authority considers necessary.

The Commission will first assess the draft amendment and then the combined application, where necessary.

The Commission may hold a hearing in relation to the representations received, and may consider the draft amendment and combined application at the same or separate hearings.

### Notes

- A planning authority may refuse to consider a combined permit [s.43A(2)].
- A combined permit may be for a combination of uses, or development or both [s.43C(2)].
- A combined permit is not required to be determined within the normal 42 days period and the 'deemed approval' provisions of Part 4 of the Act do not apply to a combined permit [s.43C(2A), s.57(5B)(b), s.58(2) and s.59(1)].
- A planning authority must assess a combined permit against the planning scheme as if the certified draft amendment had been approved [s.43C(3)]
- The assessment and reporting on a draft amendment must be separate to the assessment and reporting of a combined permit.
- A general amendment to the planning scheme (e.g. a rezoning or an amendment to a use or development table) must consider all possible implications of that amendment, not only that use or development in the combined permit.
- A 'specified departure' amendment may restrict changes to the specific use or development applied for in the combined permit.
- A planning authority's decision on the combined permit must be exhibited with the draft amendment, even if refused by the planning authority, as this allows the applicant and any other person to make a representation on the permit application and to be heard by the Commission [s.43F(3)].
- All required documentation, including the permit application, supporting information, reporting, decision and combined permit (if applicable) must be exhibited with the certified amendment [s.43F(4)].
- The Commission may refuse a combined permit or add, modify or delete any condition attached to a combined permit granted by a planning authority [s.43H(1)(b)].
- The Commission may grant the combined permit even if a planning authority rejected the application for a combined permit [s.43H(1)(c)].
- The Commission's decision regarding a combined permit cannot be appealed to the Resource Management and Planning Appeal Tribunal.
- A planning authority may make a minor amendment to a combined permit but must notify the Commission if the Commission modified, deleted or added conditions or restrictions on the combined permit [s.43K].

- The decision of a planning authority to amend a combined permit may be appealed to the Resource Management and Planning Appeal Tribunal [s.43L and 61(3A)].
- The combined permit is not required to be carried out and there is nothing to prevent a permit for another use or development being approved by a planning authority in accordance with the planning scheme and Act.
- There is no appeal to the Resource Management and Planning Appeal Tribunal in respect of a s.43A permit.

### **Further Information**

Further information regarding this subject is provided in the *Guide to the Resource Management and Planning System*, produced by the Commission and available on its website at [http://www.rpdc.tas.gov.au/planning/pln\\_docs/planning.htm](http://www.rpdc.tas.gov.au/planning/pln_docs/planning.htm).

Refer to Planning Advisory Notes 4 and 13 for guidance on preparation of draft amendments and Planning Advisory Note 8 for guidance on draft amendments that relate to specific sites.

Relevant legislation may be viewed at <http://www.thelaw.tas.gov.au>.

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