



Resource Planning and Development Commission

Planning Advisory Note 4

Subject: Assessment of a Draft Amendment to a Planning Scheme under s.32

Purpose: To provide guidance on the assessment of draft amendments for initiation and certification in accordance with s.32 of the *Land Use Planning and Approvals Act 1993*

Background

Planning authorities are required to ensure that a draft amendment is prepared in accordance with s.32 of the *Land Use Planning and Approvals Act 1993* (the Act) when initiating and certifying a draft amendment. The planning authority must therefore be satisfied that the draft amendment:

- furthers the Objectives set out in Schedule 1 of the Act; and
- is prepared in accordance with State Policies; and
- makes provision for controlling use or development or protects or conserves any land; and
- has regard to the safety of gas pipelines; and
- as far as practicable, avoids potential land use conflicts with use or development permissible under a planning scheme applying to the adjacent area; and
- has regard to the impact that it will have on the use and development of the region as an entity in environmental, economic and social terms.

The planning authority must also be satisfied that a draft amendment meets the requirements of s.20 (2), (3), (4), (5), (6), (7), (8) and (9) of the Act.

The planning authority also has an obligation to promote sound strategic planning in accordance with Objective 2(a) of the Act.

The planning authority should therefore ensure that the draft amendment is technically sound and consistent with the planning scheme by assessing the following matters:

- that the draft amendment is clear and concise and will achieve its intended purpose; and
- the effect on the strategy, intent and all relevant objectives and provisions of the planning scheme and any necessary consequential amendments; and
- the effect on the status of use and development; and
- the effect on any specific land and adjacent land.

A request to amend the planning scheme for a specific site may also require a more holistic approach to address the issue.

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 planning authority should also ensure that a draft amendment only deals with a single specific matter or related matters. The inclusion of a number of unrelated changes in the one amendment has the potential to cause confusion and may ultimately lead to a much lengthier assessment process.

Information for Assessment of Draft Amendment

The Resource Planning and Development Commission (the Commission) has an obligation under s.5 of the Act to further the objectives of Schedule 1 when determining to approve a draft amendment under s.42 of the Act.

The Commission therefore requires that the planning authority provides sufficient supporting documentation to demonstrate that the draft amendment has been prepared in accordance with s.32 of the Act. The supporting documentation should include background reports, analyses and adopted land use strategies to demonstrate that these requirements have been met. The documentation should also demonstrate how this has been translated into the draft amendment by way of changes to the zoning and controls on use and development

The draft amendment should also be drafted with the benefit of appropriate legal advice.

Where a draft amendment differs from the strategy or tenor of the planning scheme, the accompanying report will need to discuss the reasons for and merits of the change.

Early discussion of proposed amendments with Commission staff prior to certification can often assist in the detection of errors or additional information requirements. Once certified there is no ability to informally assist in the process or to rectify any problems.

Compliance with the *Land Use Planning and Approvals Act 1993*

The following sections provide guidance for planning authorities on relevant issues that should be addressed in terms of Schedule 1 Objectives of the Act and State Policies.

The following checklist will assist the assessment of a draft amendment by:

- identifying and correcting errors prior to certification, public exhibition and submission to the Commission; and
- avoiding representations resulting from concerns about the lack of supporting information or a lack of understanding of what is proposed; and
- ensuring compliance with the requirements of the Act.

This checklist is not exhaustive and additional issues may need to be addressed in specific cases.

State Policies

State Coastal Policy 1996

Issues to address:

- Have all major ecosystems, natural processes and areas of conservation value been identified and adequately protected?
- Have all wetlands and areas of aesthetic quality been identified and adequately protected?
- Have all areas potentially subject to coastal hazards been identified, mapped and adequately addressed?

- Is all development, other than for environmental protection works, prohibited from occurring on actively mobile landforms?
- Have all relevant reserves, aboriginal and historic sites and sensitive areas been identified and suitable protection provided?
- Has urban and residential development been confined to existing towns and townships to avoid ribbon or unrelated cluster development?
- Have significant scenic coastal transport routes been identified and protected?
- Are there adequate controls to prevent the need for constructing new coast hugging roads?
- Are there suitable provisions allowing for tourist use and development, marine structures, port areas, and sand extraction without compromising the protection of cultural, natural and aesthetic values of the coast?
- Has public access to and along the coast been maintained?
- Are there suitable provisions to protect the coastal environment from significant damage?

State Policy on Water Quality Management 1997

Issues to Address:

- Are there adequate controls to ensure that water quality objectives are met?
- Are there adequate controls over point source emissions to prevent the contamination of surface waters, coastal waters and groundwater?
- Are there adequate controls for stormwater management?
- Have adequate streamside buffers been provided?
- Are there adequate provisions to control on-site disposal of wastewater and stormwater in unserviced areas?
- Is the re-use of wastewater provided for?

State Policy on the Protection of Agricultural Land 2000

Issues to Address:

- Has all agricultural land been identified and adequately protected for agricultural use?
- Are there adequate controls for non-agricultural use of agricultural land?
- Are there adequate controls to protect agricultural uses from fettering by non-agricultural uses?
- Have all relevant irrigation schemes been identified and adequately protected for agricultural uses?

National Environmental Protections Measures (NEPMs)

Issues to Address:

- Is the draft amendment in accordance with the NEPMs?
- Are there appropriate provisions to ensure that potentially contaminated land is investigated and signed off by the Contaminated Sites Unit prior to any proposals for a sensitive use or development?

Schedule 1 of the *Land Use Planning and Approvals Act 1993*

Part 1 Objectives

Objective	Issues to Address
<i>(a) to promote the sustainable development of natural and physical resources and the maintenance of</i>	<ul style="list-style-type: none"> • Are all wetlands and watercourses identified and adequately protected? • Are all significant vegetation communities,

Objective	Issues to Address
<i>ecological processes and genetic diversity</i>	<p>threatened species, natural habitat and wildlife corridors identified and protected?</p> <ul style="list-style-type: none"> • Is adequate provision made to prevent land degradation, erosion, salinisation and siltation?
<i>(b) to provide for the fair, orderly and sustainable use and development of air, land and water</i>	<ul style="list-style-type: none"> • Are all relevant energy and mineral resources identified and protected? • Is adequate provision made for energy efficiency, the effects of climate change, and the reduction of greenhouse gas emissions? • Is there identified demand for the new use or development? • Can existing land supply the demand for the new use or development? • Is the new use or development a sustainable use of the land? • Is the new use or development compatible with that existing in the surrounding area? • Is the overall density of development appropriate and sustainable for the given area? • Is there adequate provision made for the fair and orderly expansion of use and development? • Is there adequate access to relevant public infrastructure and social services? • Do the existing public infrastructure and social services have the capacity for new use or development? • Is adequate provision made for waste management and recycling? • Is there adequate provision for industry and access for freight transport?
<i>(c) to encourage public involvement in resource management and planning</i> <i>(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State</i>	<ul style="list-style-type: none"> • Have all interested and affected parties and community groups been involved? • Have all relevant agencies been consulted? • Has the aboriginal community been consulted on matters where aboriginal cultural heritage may be affected?
<i>(d) to facilitate economic development in accordance with objectives (a), (b) and (c)</i>	<ul style="list-style-type: none"> • Will employment and economic activity be increased? • Will social well being and liveability be enhanced? • Will there be increased environmental protection?

Part 2 Objectives

Objective	Issues to Address
<i>(a) to require sound strategic planning and coordinated action by State and local government</i>	<ul style="list-style-type: none"> • Has an assessment been made on the supply and demand for new use or development or additional zoned land?

Objective	Issues to Address
	<ul style="list-style-type: none"> • Is the draft amendment consistent with the land use strategy adopted for the local area or municipality? • What are the consequences of allowing new use or development in the given area? • Has adequate provision been made for sustainable future growth? • Is the new use and development effectively integrated with all relevant infrastructure and services? • Have relevant agencies been consulted?
<i>(b) to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for the use, development and protection of land</i>	<ul style="list-style-type: none"> • Have all aspects of use and development been considered and adequately addressed? • Is the draft amendment technically sound (clear, consistent wording and structure)? • Have all relevant development plans, reserve management plans and permits been taken into account?
<i>(c) to ensure the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land</i>	<ul style="list-style-type: none"> • Are there adequate provisions to control emissions to air, land and water? • Are there adequate provisions to control land clearing, particularly in sensitive areas? • Will community expectations be furthered? • Is there adequate provision for and access to social services? • Will there be an adequate supply of and access to public transport and affordable housing? • Is provision made for elderly, disabled and special needs groups? • Will the viability of existing centres be maintained?
<i>(d) to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels</i>	<ul style="list-style-type: none"> • Is there consistency with relevant regional transport, tourism and natural resource management strategies? • Are marine farming plans and industry development plans provided for? • Is there consistency with relevant catchment management and coastal and marine management plans? • Is there consistency with neighbouring planning schemes?
<i>(e) to provide for the consolidation of approvals for land use or development and related matters, and to co-ordinate planning approvals with related approvals</i>	<ul style="list-style-type: none"> • Will permits be coordinated with any approvals required under any other Acts?
<i>(f) to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and</i>	<ul style="list-style-type: none"> • Are development standards provided to protect amenity? • Are adequate areas provided for public recreation

Objective	Issues to Address
<i>visitors to Tasmania</i>	<p>and open space and are they protected by appropriate zoning and controls?</p> <ul style="list-style-type: none"> • Have important skylines and landscape areas been identified and protected? • Is there an open space/recreation strategy for the municipal area? • Are there adequate attenuation distances and controls for polluting activities? • Is provision made for the development of pedestrian and cycle path networks? • Are appropriate noise buffers and standards included? • Will traffic flows and safety be affected and has a traffic impact assessment (TIA) been prepared? • Have adequate site distances for road and access junctions been maintained? • Are there controls on accesses to high priority road networks? • Have all areas subject to land instability, potential contamination, flooding and bushfire hazard been identified with appropriate controls restricting use and development?
<i>(g) to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value</i>	<ul style="list-style-type: none"> • Are all listed heritage places identified and adequately protected? • Are all significant heritage precincts, places of special cultural value, townscapes, scenery, cultural landscapes and tourist routes identified and adequately protected?
<i>(h) to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community</i>	<ul style="list-style-type: none"> • Has all existing and proposed public infrastructure (road, rail, public transport, communication and power transmission routes) been identified and adequately protected? • Is the development and operation of schools, hospitals, ports, airports and other public facilities adequately protected? • Will future use and development be within the capacity of existing or planned infrastructure, particularly water supply, sewer, and transport?
<i>(i) to provide a planning framework which fully considers land capability</i>	<ul style="list-style-type: none"> • Has the capability of the land been fully considered in terms of future use and development? • Has all agricultural land been identified and protected for agricultural uses?

Further Information

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

For further information, contact:

The Manager

Resource Planning and Development Commission

GPO Box 1691, HOBART TAS 70001

Telephone (03) 6233 2795

Facsimile (03) 6233 5400

eMail: enquiry.rpd@justice.tas.gov.au

Simon Cooper

Executive Commissioner

Resource Planning & Development Commission

February 2008