



Resource Planning and Development Commission

Planning Advisory Note 14

Subject: Format of Draft Amendments

Purpose: To provide guidance on the appropriate form for draft amendments to planning schemes

Background

A planning scheme is a formal legal document that must be lodged with the Central Plan Registry. For this reason, it is important that any amendment to this document must be drafted clearly and accurately.

This advisory note provides guidance on the drafting of planning scheme amendments and provides examples for specific types of amendments (text changes to the ordinance and amendments to the plans).

Amendment Guide

1. Signing and sealing of amendment

Draft amendments must be signed and sealed by planning authority and include the date of the planning authority's resolution in the following manner.

<p>The Common Seal of the Council is affixed below, pursuant to the Council's resolution of..... 20...., in the presence of:- Mayor General Manager <i>[Affix Common Seal Here]</i></p>
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There should be sufficient space for the planning authority and the Resource Planning and Development Commission (the Commission) to place their seal and signatures without obscuring the draft amendment. If an amendment includes a change to the plans and the ordinance, both parts of the amendment require Council's seal.

Where a draft amendment comprises more than one page of text, it is not necessary to sign and seal each page if the pages are numbered as being part of the sequence of pages. All text pages

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of the draft amendment require sequential numbering (e.g. Page 1 of 3) and should be permanently fastened by binding or stapling to guard against the separation of any individual pages. Where the draft amendment includes a plan sheet or sheets, each plan sheet should be appropriately numbered and authenticated.

2. Naming of amendment documents

Amendment documents must include the full name of the planning scheme and the unique reference for that amendment. The term “amendment” should be used in accordance with the *Land Use Planning and Approvals Act 1993* (the Act), rather than “alteration”.

The word “draft” should not be included on the actual certified amendment document.

3. Numbering of amendments

Each draft amendment should be given a unique number reference.

For digital record keeping purposes, numeric sequences are more easily and accurately maintained. It is far easier in later years to identify the amendment correctly if a sequential numbering method combining the year of the amendment is used (e.g. Amendment 09/2003).

Each new draft amendment submitted to the Commission should be given the next number in the sequence, regardless of whether the preceding amendment was approved or not.

4. Amendment content

A draft amendment should only deal with a single specific matter or related matters. The inclusion of a number of unrelated changes in the one draft amendment has the potential to confuse the public and may ultimately lead to a much lengthier assessment process.

5. Text changes to the ordinance

Changes to the ordinance should include a clear statement of what is to be deleted and what is to be inserted. It is essential that correct clause numbers are referred to in the direction to amend the planning scheme. Avoid any references to page numbers in the ordinance as these can often vary between copies and may vary overtime. Any necessary changes to the Table of Contents are to be made as part of the draft amendment.

The following provides some guidance and examples of specific amendments to the ordinance.

5.1. Minor rewording

For a minor rewording (ie. the removal and/or inclusion of a word(s) within a clause), it is preferable that the draft amendment only require the specific word(s) to be removed or inserted. The substitution of a new clause entitles the entire clause to be assessed as the draft amendment and not just the newly deleted or inserted word(s).

It is important to specify clearly the word(s) to be removed. For Example:

- Delete from Clause 5.4.2 the words “*use or development*”; or
- Omit from Clause 5.4.2 the word “*development*” and substitute with “*use*”; or
- Insert the words “*or development*” after “*use*” in Clause 5.4.2.

If the word(s) in question occur more than once in the clause, specify which occurrence of the word(s) is to be removed. For example:

- Delete the second occurrence of the word “*use*” in Clause 5.4.2; or
- Delete the word “*use*” from the second sentence in Clause 5.4.2.

If there are a number of rewording changes required in the same clause, it is recommended that it be substituted with a new clause to avoid confusion (see 5.2 below).

5.2. Removal and/or inclusion of a clause

When submitting a text amendment that will result in any additional clauses being inserted, these must be numbered so that they follow on from the appropriate part of the ordinance (see also 5.4 below). Care should be taken with clause numbering when other text amendments are also in train. For example:

- Delete Clause 5.4.2; or
- Omit Clause 5.4.2 and substitute with the following:
“5.4.2 The use or development of a single dwelling unit is permitted in the Residential Zone.”; or
- Insert a new clause after Clause 5.4.2 as follows:
“5.4.3 The minimum lot size in the Residential Zone is 450m².”

To ensure that the correct clause is deleted, it is also recommended that the clause be quoted in full in the planning authority’s supporting report.

5.3. Amending a table

If removing a row or column from a table it is important to specify clearly those to be removed.

To ensure that the correct row or column is deleted, it is also recommended that the clause be quoted in full in the planning authority’s supporting report.

If including a new row or column in a table it is important to indicate clearly how and where it is to be included. It is recommended that the row or column to be inserted be written exactly as it is to appear in the table. For example:

- Delete row 3 from Table 7.1; or
- Omit row 3 from Table 7.1 and substitute with the following:

3	6B	1.2	1.6	120	390
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- Insert a new row after row 5 as follows:

6	16B	0.9	1.2	160	480
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5.4 Renumbering clauses

The removal or inclusion of a clause may also require the renumbering of subsequent clauses in the planning scheme. A simple direction detailing the clause(s) to be renumbered will suffice. For example:

- Renumber clauses 3.4, 3.5 and 3.6 to 3.5, 3.6 and 3.7, respectively; or
- Renumber clauses 3.4, 3.5 and 3.6 accordingly.

When renumbering clauses it is important to ensure that the directions to amend the planning scheme are placed in the appropriate sequence. To avoid confusion the direction to renumber subsequent clauses should be inserted after the direction to remove or include a clause. For example:

- Delete clause 3.3; or
- Renumber clauses 3.4, 3.5 and 3.6 accordingly.

When removing or inserting more than one clause in a sequence or section, include the direction to renumber the remaining clauses at the end. For example:

- Delete clauses 3.3 and 3.6; or
- Renumber clauses 3.4, 3.5 and 3.7 accordingly.

In circumstances where the renumbering of subsequent clauses would create an inconvenience (e.g. require the renumbering of all subsequent sections in the planning scheme), it is best to:

1. When deleting a clause(s), replace the relevant clause with the word “Deleted”.
For example:
 - Omit clause 3.4 and substitute with the following:
“3.4 Deleted”
2. When inserting a clause, use the same number as the previous clause with the addition of an alphabetical notation. For example:
 - Insert a new clause after clause 3.4 as follows:
“3.4A The minimum lot size in the Residential Zone is 450m2.”

When renumbering clauses it is important to ensure that it does not effect any cross-referencing to other clauses in the planning scheme. Where possible, it is preferred to avoid any cross-references to other clauses. All provisions of the planning scheme should be triggered when relevant without the need for cross-referencing.

6. Amendment to the plans

An amendment to the plans should clearly identify all the area affected by the draft amendment. It may be necessary to use a number of plan sheets for this purpose.

Where a draft amendment relates to a small parcel of land on a large plan sheet, an inset of the plan may be used, provided there is sufficient detail to locate the subject land (eg. street address, street names, title reference).

The colour (or hatching or code) used for the intended zone should be as close as possible to that used in the key of the planning scheme. Plans drawn using digital data are preferred over hand coloured plans.

Only those details relevant to the draft amendment should be shown in the plan, other than the base mapping data such as cadastre, roads, watercourses etc. No unrelated zonings, overlays and notations should appear on the certified draft amendment.

All details that appear on the plan form part of the draft amendment and is therefore subject to representation and consideration by the Commission.

To ensure the draft amendment can be accurately interpreted, the edge of any zone, special area or overlay should be clearly marked.

Where a draft amendment requires a special area or overlay to be removed, the direction should clearly state the area from which it is to be removed by reference to a street address or title reference. Where a special area or overlay is to be removed and not replaced by another, the draft amendment document should be left uncoloured/unhatched with the appropriate direction to describe the change.

Where the boundary does not follow a cadastral boundary or contour line on the plan, it should be drafted accurately to scale and show the actual dimensions. A survey plan of the land affected should be provided.

Further Information

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

For further information, contact:

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