

TASMANIAN PLANNING COMMISSION



DECISION

Planning scheme	West Tamar Interim Planning Scheme 2013
Amendment	AMD 03-20 – amend Clause 29.4 P3 by deleting the words ‘No performance criteria’ and inserting a new Clause 29.4 P3
Planning authority	West Tamar Council
Date of decision	8 September 2020

Decision

The draft amendment is modified under section 41(ab) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 42.

A handwritten signature in black ink, appearing to read 'Sandra Hogue', with a large, stylized initial 'S'.

Sandra Hogue
Acting Executive Commissioner

Note:

References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the former provisions of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The former provisions apply to an interim planning scheme that was in force prior to the commencement day of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The commencement day was 17 December 2015.

REASONS FOR DECISION

Background

Amendment

The amendment proposes to delete the words 'No performance criteria' at Clause 29.4 P3 and insert a new Clause 29.4 P3 that provides development standards.

Site information

The draft amendment applies to all land within the West Tamar municipality zoned Environmental Management.

Issues raised in representations

One representation was received from TasWater. TasWater raised no objection to the draft amendment.

Planning authority's response to the representations

The planning authority recommends that the Tasmanian Planning Commission (the Commission) approve the draft amendment.

Consideration of the draft amendment

1. Under section 40 of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the amendment and the representations, statements and recommendations contained in the planning authority's section 39 report.
2. One representation was received and after consultation under section 40(2A) of the Act, the Commission dispensed with holding a hearing.
3. The amendment has been initiated and certified by the West Tamar Council, in its capacity as planning authority, and further supported in the reports under sections 35 and 39.
4. Under section 32(1), in the opinion of the relevant decision-maker, a draft amendment:
 - (a)-(d) . . .
 - (e) must, as far as practicable, avoid potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area;
 - (ea) must not conflict with the requirements of section 300;
 - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
5. Section 32(1)(e) is considered relevant to the draft amendment as the land adjoins an adjacent municipal area.
6. Under section 32(1)(f), regional impacts of use and development permissible under the amendment have been considered with reference to the Northern Tasmania Regional Land Use Strategy, 27 June 2018 (the regional strategy).

7. Under section 32(2), the provisions of section 20(2)-(9) inclusive apply to the amendment of a planning scheme in the same manner as they apply to a planning scheme.
8. Section 300 includes that:
 - (1) An amendment may only be made under Division 2 or 2A to a local provision of a planning scheme, or to insert a local provision into, or remove a local provision from, such a scheme, if the amendment is, as far as is, in the opinion of the relevant decision-maker, practicable, consistent with the regional land use strategy for the regional area in which is situated the land to which the scheme applies.

Strategic justification

9. In its section 35 report, the planning authority considers that the draft amendment does not intend to alter the outcome of the West Tamar Interim Planning Scheme 2013 (interim planning scheme) but rather introduces a performance criterion that is consistent with other interim planning schemes in the Northern Tasmania region.

Commission's consideration

10. The Commission agrees with the justification provided by the planning authority and considers that the draft amendment implements a regionally consistent approach to biodiversity management.

Avoiding potential for conflict with use and development of the adjacent area

11. Section 32(1)(e) requires that the amendment 'must, as far as practicable, avoid the potential for land use conflicts with use and development permissible under the planning scheme applying to the adjacent area'.
12. The planning authority considers that no conflicts would arise from the draft amendment as the new performance criteria will continue to control development within the Environmental Management zone to an acceptable standard.

Commission's consideration

13. The Commission considers that, as the draft amendment does not allow for any additional use and continues to control development under new provisions, there is minimal potential for land use conflicts with use and development applying to the adjacent area. The Commission agrees with the planning authority that the amendment meets the requirements of section 32(1)(e).

State Policies and Resource Management and Planning System Objectives

14. The Commission finds that no State Policies are relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1.

Modifications required to draft amendment

15. To clarify the application of the draft amendment, modifications have been made to refer to Clause 29.4.1 P3 rather than Clause 29.4 P3 of the interim planning scheme.

Decision on draft amendment

16. Subject to the modifications described above, the Commission finds that the draft amendment is in order and gives it approval.

Attachments

Annexure A – Modified amendment

Annexure A

Modified amendment AMD 03-20

The West Tamar Interim Planning Scheme 2013 is amended as follows:

Delete the words 'No performance criteria.' from clause 29.4.1 P3 and insert a new clause 29.4.1 P3 as follows:

	<p>P3</p> <p>Building setback must be appropriate to the values of the site, having regard to:</p> <ul style="list-style-type: none">(a) the topography of the site;(b) the setbacks of surrounding buildings;(c) the height, bulk and form of existing and proposed buildings;(d) the appearance when viewed from roads and public places;(e) the retention of vegetation;(f) the existing or proposed landscaping;(g) the safety of road users; and(h) the character of the surrounding area.
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