

Subject: Combined permit and amendments to Local Provisions Schedules

Purpose: To provide information about combined permit and amendment applications to Local Provisions Schedules under sections 40T to 43 of the *Land Use Planning and Approvals Act 1993*.

1.0 Introduction

The *Land Use Planning and Approvals Act 1993* (the Act) includes a process for a permit application to be considered at the same time as an amendment to a Local Provisions Schedule (LPS) [[sections 40T to 43](#)].

This process can be used if a permit cannot be considered unless the LPS is also amended.

This Practice Note should be read together with **Practice Note 12 – Local Provisions Schedule Amendments** where the same provisions of the Act apply.

This Practice Note should also be read in conjunction with the Act.

2.0 Getting started

A person may apply to a planning authority for a permit to be considered concurrently with an LPS amendment.

Planning authority consideration of the amendment is the same as for a normal amendment [Part 3B - Divisions 2 and 3].

The permit process differs to the normal process because the planning authority assesses the application and decides whether to grant or refuse the permit before it is publicly exhibited.

3.0 Draft permit decision

The planning authority must assess the permit application against the Tasmanian Planning Scheme (TPS) as if the draft amendment to the LPS had been approved. [[section 40Y\(4\)](#)].

If a place is on the Tasmanian Heritage Register, the planning authority must refer the permit application to the Tasmanian Heritage Council (THC) and if the THC has conditions for the permit, these are exhibited with the draft amendment and draft permit. The planning authority must also send the THC the representations received during the exhibition so that it may provide a report on the representations to the Commission. [[sections 39A to 39C](#) of the *Historic Cultural Heritage Act 1993*].

The planning authority must approve with or without conditions, or refuse the permit prior to publicly exhibiting both the draft amendment and its decision on the draft permit.

The planning authority has seven days to advise the Commission it has determined an application for a combined permit and amendment. See Appendix 1 for a checklist of the Commission's requirements that should accompany this step.

4.0 Exhibition and report on the representations

A planning authority's decision on the permit must be exhibited with the draft amendment, even if the permit is refused by the planning authority. When the planning authority notifies its decision it must exhibit:

- its decision under [section 40Y\(2\)](#);
- a copy of the application and any accompanying documentation; and
- the permit if one was granted [[section 40Z](#)].

Similar to an ordinary amendment, after the exhibition period closes, the planning authority must then report to the Commission on the representations [[section 42](#)].

See Appendix 2 for a checklist of the Commission's requirements for this step.

5.0 Commission's consideration and decision

The Commission must hold a hearing if there are representations [[section 42A](#)] except if it is satisfied that all the representations are in support of the amendment or the person who made the representation has advised in writing that they do not wish to attend a hearing [[section 40L\(2\)](#)].

Whether or not there is a hearing the Commission must give consideration to both the draft amendment and permit. The Commission usually focuses on the draft amendment first and then the permit application because the permit is assessed as if the amendment were approved and it may be necessary to alter or modify the draft amendment.

If the draft amendment is not approved, the permit is determined under the planning scheme in force at the date of the decision [[section 42B\(3\)](#)].

The Commission may confirm the planning authority permit, reject it or add, modify or delete any condition of the permit [[section 42B\(1\)](#)].

The Commission may grant a permit even if a planning authority rejected the application for a permit [[section 42B\(1\)\(c\)](#)].

6.0 About the permit

The Commission's decision on the permit is final and cannot be appealed to the Resource Management and Planning Appeal Tribunal.

A planning authority may only amend the permit in limited circumstances, and cannot amend a condition that was modified by the Commission. There is no power for the Commission to amend permit after it has been granted.

After amending the permit the planning authority must notify the Commission if the Commission modified, deleted or added conditions on the permit [[section 43](#)].

The planning authority or the Commission have limited powers to correct mistakes in the permit [[section 42D](#)].

Further information

For further information contact the Tasmanian Planning Commission:

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Appendix 1: Checklist for planners [[section 40Y](#)]

The following information and documents are to be provided to the Commission when advising that the planning authority has certified a draft amendment:

1. Date of the planning authority decision to certify the draft amendment and whether to grant / not grant the permit.
2. Copy of the planning authority minutes, including reasons for the decision.
3. Copy of the certified draft amendment with the council seal in PDF format and a word version of the draft amendment document and GIS files in MapInfo or ArcInfo for any mapping amendments. See Appendix 3 for guidance on drafting and setting out the amendment document.
4. Copy of the permit, if granted, including a hard copy of each endorsed plan referred to in the permit, at the scale submitted by the applicant (or at a readable scale).
5. Copy of the application (if requested by an individual), as well as any application material, including expert reports and the planning authority form if applicable.
6. Copy of the planner's report to the planning authority, including their recommendations.
7. A copy of any additional supporting information not already included above, such as local land use strategies or other relevant studies endorsed by the planning authority, comments from relevant agencies, etc.
8. Completed [owner's consent form](#) approved by the Commission if the request is made by a person other than the owner.
9. Title references, area, dimensions, and copy of the title if the amendment is for a specific site or title.
10. Copies of the newspaper notices (copy of the advertisement in the newspaper is preferable to proofs), including the dates the notices appeared (these may be sent separately following notification).
11. Copy of the referral to TasWater [[section 56S, and where appropriate section 56O of the Water and Sewerage Industry Act 2008](#)] and notification of State agencies and authorities that may have an interest. (This may be sent separately after the referral has been made).

NOTES: Please provide the information above by email to tpc@planning.tas.gov.au. Where attachments are too large for email, please contact the Commission for assistance with accessing Dropbox.

The Commission keeps electronic records and does not require hard copy documents.

Appendix 2: Checklist for planners [[section 40K](#)]

The following information and documents are to be provided to the Commission after exhibition period has closed and the planning authority has considered any representations to a draft amendment:

1. A copy of the planning authority decision about the representations under [section 40K](#). (A formal decision under delegation or by resolution is required even where there are no representations received).
2. A copy of the planning authority minutes, including reasons for the decision, or a copy of the delegated decision if determined under officer delegation (confirmation of the scope and date of delegation should also be supplied).
3. A copy of the planner's [section 40K](#) report on the representations.
4. A copy of the unredacted representations, either as an appendix to the report or separately.
5. A copy of the names and addresses of those who made representations (such as planning authority mail merge or email list of representors to assist the Commission in contacting parties for hearings).
6. A copy of the TasWater response to the referral [[section 56S of the Water and Sewerage Industry Act 2008](#)] or confirmation that TasWater did not respond.
7. Fees payable under [regulation 11](#) of the *Land Use Planning and Approvals Regulations 2014* paid by cheque or EFT to the Commission. Remittance advice should also be supplied.

NOTES: Please provide the information above by email to tpc@planning.tas.gov.au. Where attachments are too large for email, please contact the Commission for assistance with accessing Dropbox.

The Commission keeps electronic records and does not require hard copy documents.

Appendix 3: Guide to setting out amendment documents

Amendment documents (called instruments) must clearly and accurately describe the draft amendment. The following is recommended:

1. Numbering

The amendment document should be numbered, with reference the relevant LPS. For example:

Draft Amendment [NUMBER] to the [NAME] Local Provisions Schedule

Each draft amendment should be given a unique number reference, taking the next number in the sequence, regardless of whether the previous amendment has been approved. The numbering format is not critical. Some planning authorities use number/year format and others use a simple number sequence.

2. Scope

An amendment can be for a specific matter or for more than one, related matter. For example, a map change and related text changes. However, unrelated matters should not be contained within a single amendment.

3. Expression of amendment document

Expression should be consistent in the amendment document. The following expression is suggested:

Amend:	Use the term 'amend' to describe a change, modification or revision of the text and maps in the planning scheme. e.g. 'Amend clause 10.3 by . . .' Rather than the terms 'modify', 'revise' or 'change'.
Apply:	Use 'apply' to describe the inclusion of land in an overlay. e.g. 'Apply the airport obstacle limitation area to the land . . .'
Delete:	Use the term 'delete' to describe the removal of text, maps or spatial information from the planning scheme. e.g. 'Delete clause 10.3 . . .'; 'Delete map 13 – Specific Area Plan Precincts' or 'Delete the boundary of the Mt Field Specific Area Plan from the maps' or 'Delete clause 10.3 (a) and renumber the following clauses. Rather than the terms 'remove', 'omit' or 'substitute with'
Insert:	Use 'insert' to describe the addition, introduction or inclusion of text and maps to the planning scheme. e.g. 'Insert clause 10.3 (k) after 10.3 (j).'
	Rather than the terms 'add' or 'include'.

Delete and insert: Use 'insert' in conjunction with 'delete'. e.g. 'Delete F1.0 Mt Field Specific Area Plan and insert the following: . . .', 'Delete 'single dwelling' and insert 'dwelling unit'.

Rather than the terms 'substitute' or 'replace'

Only refer to clause numbers, not page numbers as these can vary.

Include a clear statement describing what is to be deleted. For example:

'delete the words 'use or development' from clause 5.4.2';

'at subclause 14.4.1, delete the word 'site' and insert 'place'';

'delete clause 11.3 and insert a new clause 11.3, as follows . . .'; or

'at clause 12.2, insert 'amenity' after the words 'unreasonable loss of''.

If the words being amended occur more than once in the clause, specify which occurrence. 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 the clause be deleted and a new clause inserted to avoid confusion.

Numbering and formatting conventions should be suitable for publication on-line (refer www.ipan.tas.gov.au) as the amendment will be transcribed into the online version once approved if the planning scheme is on ipan.

4. Mapping

Begin by generating the mapping using data from the latest version of theLIST.

Clearly identify the area in question spatially and textually. e.g. Rezone 14 Piper Place from Light Industrial to Commercial as follows: (insert the mapping)'

Include an extract from the LPS maps showing the extent of the amendment. This may be a single or multiple sheets depending on whether the mapping changes are extensive, or the amendment includes zoning and overlays.

If the extent of an overlay is to be reduced, include an extract from the LPS maps showing that area to be deleted from the overlay.

Mapping must be at a readable scale or include an inset to aid interpretation. It must include enough information to identify the subject area, e.g. street names, title references etc.

Only include the proposed zoning or overlay details relevant to the land within the amendment. Show surrounding cadastre and place names but do not include the current zoning, overlays or other detailed mapping information.

If the boundary of the amendment does not follow the cadastre, it is important to include mapping coordinates. The zoning or overlay boundary should be capable of being interpreted accurately from the maps.

5. Seal

The amendment document must include the council seal [[section 40F\(3\)](#)]. Apply it to both text and plans if both form part of the amendment.