Subject: Combined permit and amendment applications

Purpose: To provide guidance on the process for consideration of a combined permit and amendment application made under the Land Use Planning and Approvals Act 1993 (the Act).  

1.0 Introduction

The Act includes a process for a permit application to be considered at the same time as an amendment to a planning scheme [sections 43A to 43M of the Act].

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

Although the permit and amendment processes remain separate, the assessment time of the two processes is reduced by combining the public exhibition and, where necessary, a hearing.

This Practice Note should be read together with Practice Note 1 – Planning Scheme Amendments where the same provisions of the Act apply.

2.0 Getting started

When dealing with requests for combined permits and amendments, a planning authority must first decide to initiate the amendment before considering the permit application. If planning authority does not initiate the amendment, the permit cannot be approved.

The planning authority consideration of the amendment is the same as for a normal amendment [Part 3 Division 2].

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.

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1 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. Parts 2A and 3 of the former provisions remain in force until a Local Planning Schedule comes into effect for the municipal area.
The planning authority must assess the permit application against the planning scheme as if the draft amendment had been approved [section 43C (3)].

The next steps are similar to those for an amendment. The planning authority has seven days after making its decision to proceed with the amendment to advise the Commission. A checklist setting out the Commission’s requirements for this step is set out in Appendix 1.

3.0 Notification and reporting

A planning authority decision on the permit must be exhibited with the draft amendment, even if the permit is refused by the planning authority [section 43F(3)].

When the planning authority notifies its decision it must exhibit:

- its decision under section 43F(1)(b);
- a copy of the application and any accompanying documentation; and
- the permit if one was granted.

Similar to an ordinary amendment, after the exhibition period closes, the planning authority must then report to the Commission on the representations. See Appendix 2 for a checklist of the Commission’s requirements for this step.

4.0 The Commission’s consideration and decision

The Commission will assess the amendment first and then the permit application (where the amendment is supported).

All of the possible implications of the amendment must be considered, particularly where the amendment is broad in nature and not limited to the site of the proposed use or development.

The Commission may reject a permit or add, modify or delete any condition of the permit granted by a planning authority [section 43H(1)(b)].

The Commission may grant a permit even if a planning authority rejected the application for a permit [section 43H(1)(c)].

5.0 About the permit

The normal time periods for granting or rejecting the permit do not apply and the ‘deemed approval’ provisions of the Act do not apply [sections 57(6)(b), 58(2) and 59(1)].

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

A planning authority may make a minor amendment to the permit but must notify the Commission if the Commission modified, deleted or added conditions on the permit [section 43K].
Further Information

For further information contact the Tasmanian Planning Commission:

**Telephone:** (03) 6165 6828

**Email:** tpc@planning.tas.gov.au

**Website:** www.planning.tas.gov.au

Greg Alomes
Executive Commissioner
Tasmanian Planning Commission

September 2017
Appendix 1: Planner checklist for combined permits and amendments [section 43F(2)]

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

1. Date of the planning authority decision to initiate and certify the draft amendment.
2. Copy of the planning authority minutes including reasons for the decision.
3. Copy of the certified draft amendment with the council’s seal in PDF format and a word version of the draft amendment document and GIS files in MapInfo or ArcInfo for any map changes. See Appendix 3 for guidance on setting out the amendment document.
4. A 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, as well as any application material, including expert reports, land title information etc. and planning authority’s form if applicable.
6. Copy of the planner’s report to planning authority, including their recommendations.
7. A statement of the reasons why the planning authority formed the opinion that the amendment, is as far as practicable, consistent with the RLUS.
8. 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.
9. Evidence of owner’s permission if the request is made by a person other than the owner [section 33(2A)].
10. Title references, area, dimensions, and copy of the title if the amendment is for a specific site or title.
11. Copies of the newspaper notices, including the dates the notices appeared.
12. Copy of the notification letters and list of persons notified.

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.

2 Note these need to be consistent with the relevant regional land use strategy.
Appendix 2: Planner Checklist for Combined Permits and Amendments [section 43F(6)]

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 planner’s section 39 report on the representations.

2. A copy of the unredacted representations.

3. A copy of the names and addresses of those who made representations (such as the planning authority mail merge or email list of representors to assist the Commission in contacting parties for hearings).


5. A copy of the planning authority decision about the representations reported under section 39. (A formal decision under delegation or by resolution is required even where there are no representations received).

6. A copy of the planning authority minutes including reasons for the decision or delegated decision, if determined under officer delegation (confirming the officer is acting under delegation).

7. Fees which are payable under the Land Use Planning and Approvals Regulations 2014 – Regulation 11 paid by cheque or EFT to the Commission.

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 (or instruments) must clearly and accurately describe the draft amendment. Set out recommendations include:

**Numbering**

- Each draft amendment should be given a unique number reference, taking the next number in sequence for the relevant year, regardless of whether the previous amendment has been approved.

**Text**

- Changes should refer only to clause numbers, not page numbers as these can vary.
- For minor changes, expression may be in terms of ‘delete’ and ‘replace’ but for more extensive change, deletion and replacement of the entire clause is recommended.
- Numbering and formatting conventions should be suitable for publication on-line (see the planning schemes on www.iplan.tas.gov.au) as the amendment will be transcribed into the online version once approved if the scheme is on iplan.

**Plans**

- Clearly identify the area in question either spatially or textually or both.
- If shown spatially, the amendment document should include a map extract at a readable scale. It should include enough information to identify the affected 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 their current zoning, overlays or other detailed mapping information.
- If the boundary of the amendment does not follow the cadastre, it is important to have clear descriptors of proposed zoning or overlay boundaries e.g. a natural feature or distance in metres to a measurable point. The zoning or overlay boundary should be able to be interpreted accurately from the plans.

**Seal**

- The amendment document must include the council seal [section 35(2)]. Apply it to both text and plans if both form part of the amendment.