

Practice Note 3

Subject: Combined permit and amendment applications

Purpose: To provide information about combined permit and amendment applications made under former sections 33, 34 and 35 of the *Land Use Planning and Approvals Act 1993* (the Act)¹.

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

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.

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 certify 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

As with a draft amendment, the Commission must hold a hearing if there are representations. However, it can dispense with a hearing 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 40\(2A\)](#)].

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.

The Commission may confirm the planning authority permit, reject it or add, modify or delete any condition of the permit. [[section 43H\(1\)\(a\) and \(b\)](#)].

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 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. [\[section 43K\]](#).

Further Information

For further information contact the Tasmanian Planning Commission:

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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. 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 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. A completed owner's consent form 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, including the dates the notices appeared.
11. Copy of the notification letters and list of persons notified.
12. Copy of the referral to TasWater [[section 56S of the Water and Sewerage Industry Act 2008](#)] (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: 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, either as an appendix to the report or separately.
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).
4. A copy of the TasWater referral and response [*section 56S of the Water and Sewerage Industry Act 2008*], or confirmation that TasWater did not respond
5. A copy of the planning authority report about the representations 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 (confirmation of the scope and date of delegation should also be supplied).
7. Fees are 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 (sometimes called instruments) must clearly and accurately describe the draft amendment. The following is recommended:

1. Numbering

The amendment document should be numbered, with reference to the relevant planning scheme. For example:

Draft Amendment [NUMBER] to the [NAME] Interim Planning Scheme [YEAR]

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.iplan.tas.gov.au) as the amendment will be transcribed into the online version once approved if the planning scheme is on iplan.

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 planning scheme 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 planning scheme 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 plans.

5. 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.