

Onshore Oyster Farming and Processing Facilities

Purpose

This information sheet provides an overview of Tasmania's planning approvals process under the *Land Use Planning and Approvals Act 1993* (the Act) for onshore oyster farming and processing facilities in municipal areas where the *Tasmanian Planning Scheme* (TPS) is in effect.

While the State Planning Office has prepared this information sheet, local councils, acting as the planning authorities for their respective municipal area, must determine whether or not a specific development proposal complies with the planning scheme in effect in their municipal area. Therefore, discussions with any relevant local council are recommended.

Background

Oyster farming is one of Tasmania's leading aquaculture sectors, and while it usually takes place offshore, it may occasionally be supported by the development and operation of onshore facilities.

Onshore facilities may also be required for the processing of oysters.

In Tasmania, the development and operation of onshore oyster farming and processing facilities may require different approvals, licenses and permissions, including planning approvals under the Act and, more specifically, under the planning scheme in effect in the municipal area where the proposed facility is located. This information sheet deals only with onshore oyster farming and processing facilities in municipal areas where the TPS is in effect.

Introduction

The TPS consists of:

- State Planning Provisions (SPPs), which apply State-wide and include administrative and general provisions and a consistent set of planning rules for 23 generic zones and 16 codes; and
- Local Provision Schedules (LPSs), which are specific to each municipal area and include zone and code overlay maps and planning objectives or requirements specific to an area or site (i.e., local area objectives, particular purpose zones, specific area plans and site-specific qualifications).

PlanBuild Tasmania is a valuable tool to understand which zones, overlays and local provisions apply to a property and which is the relevant Council for the municipal area where that property is located. A Council may provide information about the planning rules that apply to a property.

Key terms and definitions

The TPS includes the following terms and definitions:

Term	Definition
aquaculture	means use of land to keep or breed aquatic animals, or cultivate or propagate aquatic plants, and includes the use of tanks or impoundments on land.
marine farming shore facility*	means use of land to provide on shore support infrastructure and facilities for offshore aquaculture but does not include the processing of fish or other marine organisms.

*Please note that while the definition of 'marine farming shore facility' may include onshore oyster farming facilities, it explicitly excludes onshore oyster processing facilities. The practical effects of this exclusion will be discussed below.

Key use classes

By general rule, proposals for the use and development of land must be categorised into one of the use classes listed in Table 6.2 of the TPS. For the purposes of this information sheet, 2 use classes are relevant:

Use Class	Description
Resource Development	use of land for propagating, cultivating or harvesting plants or for keeping and breeding of livestock or fishstock. If the land is so used, the use may include the handling, packing or storing of produce for dispatch to processors. Examples include agricultural use, aquaculture, controlled environment agriculture, crop production, horse stud, intensive animal husbandry, plantation forestry, forest operations, turf growing and marine farming shore facility.
Resource Processing	use of land for treating, processing or packing plant or animal resources. Examples include an abattoir, animal saleyard, cheese factory, fish processing, milk processing, winery, brewery, cidery, distillery, and sawmilling.

An onshore oyster farming facility is generally included under the definition of 'marine farming shore facility' and, therefore, it can be best categorised under the Resource Development use class.

An onshore oyster processing facility, where oysters are converted into a product or by-product (e.g., smoked oysters or oyster juice to make oyster sauce), can be best categorised under the Resource Processing use class.

If a proposal involves the farming and processing of oysters on the same facility and one activity is directly associated with and subservient to the other, the categorisation should be as follows:

- If most of the facility will be used for oyster farming, the use class should be Resource Development; or
- If most of the facility will be used for oyster processing, the use class should be Resource Processing.

This categorisation matters for planning approval-related purposes, given that the use class is key in determining the planning status of a proposal, and, therefore, the type of planning approval required under the Act (if any). This will be further discussed below.

Planning status of a proposal and type of planning approval required

A proposal can generally be categorised into one of five categories:

Planning Status	Description	Type of Planning Approval Required	Statutory Timeframe
Exempt	The proposal is exempt from requiring a planning permit under the exemptions in clause 4.0 of the TPS.	No planning permit is required, but some Councils may issue a certificate confirming this.	Nil.
No Permit Required	The proposal is for a use class listed as No Permit Required in any applicable use table of the TPS and meets all applicable Acceptable Solutions of the TPS.	No planning permit is required, but some Councils may issue a certificate confirming this.	Nil.
Permitted	The proposal is for a use class listed as Permitted in any applicable use table of the TPS and meets all applicable Acceptable Solutions of the TPS.	A planning permit is required.	The relevant Council has up to 28 days from the day it receives a valid development application to decide whether or not to issue a planning permit for the proposal**.
Discretionary	The proposal is for a use class listed as Discretionary in any applicable use table of the TPS and/or relies on one or more Performance Criteria of the TPS, all of which can be satisfied.	A discretionary planning permit is required***.	The relevant Council has up to 42 days from the day it receives a valid development application to decide whether or not to issue a discretionary planning permit for the proposal**.
Prohibited	The proposal is for a use class Prohibited in any applicable use table of the TPS and/or relies on one or more Performance Criteria of the TPS that do not exist or cannot be satisfied.	No planning permit can be issued.	N/A.

**This statutory timeframe excludes any time between the day the relevant Council issues a request for information and the day the Council considers that the applicant has satisfactorily addressed that request.

***When a discretionary planning permit is required, the proposal must be advertised for public comment for 14 days, and the public can make representations in favour or objecting fully or partially to it. Representations must be considered by the Council when deciding on the proposal.

SPPs zone requirements

The SPPs include 23 generic zones. Each zone includes:

- The zone purpose, which outlines the desirable or most compatible use and development for land in that zone;
- A use table, which lists use classes into 4 possible categories (i.e., No Permit Required, Permitted, Discretionary and Prohibited); and
- Any applicable standards for use and/or development, each one of which typically include:
 - Acceptable Solutions, which are easily measurable standards of what is acceptable; and
 - Performance Criteria, which contain alternative standards for when the respective Acceptable Solution cannot be met. These standards tend to be less measurable, and thus, they require the relevant Council to exercise discretion as to whether or not they can be satisfied.

Attachment I lists the categorisation of the Resource Development and Resource Processing use classes within the 23 generic zones of the SPPs. This table suggests that the Rural and Agricultural zones provide greater flexibility in relation to Resource Development uses than other zones and that the General Industrial and Rural zones provide greater flexibility in relation to Resource Processing uses than other zones.

SPPs code requirements

The SPPs include 16 codes. Each code is typically structured as follows:

- The code purpose;
- An identification of the scenarios in which the code applies;
- Key terms and definitions;
- An identification of the scenarios in which a proposal is exempt from the code; and
- Any applicable standards for use and/or development, each one of which typically include Acceptable Solutions and Performance Criteria.

The relevant planning authority should assess each proposal on its own merits, meaning that there might be different SPPs code requirements that must be observed based on the particulars of a proposal (e.g., if a proposal involves the development of signage, the Sign Code may apply).

Notwithstanding this, the table below lists SPPs code requirements which are specific to Resource Development and Resource processing uses:

Code	Application	Requirements
C2.0 Parking and Sustainable Transport Code	By general rule, this code applies to all use and development of land.	By general rule, this code requires a minimum number of parking spaces to be provided for a proposal, which are given by the dominant use class: <ul style="list-style-type: none"> • For Resource Development, if for aquaculture: 2 car parking spaces per 3 employees; and

Code	Application	Requirements
		<ul style="list-style-type: none"> For Resource Processing: 2 car parking spaces per 3 employees and 1 bicycle parking space per 5 employees. <p>If parking spaces need to be provided, they are expected to be developed in accordance with any applicable requirements of this code and to the satisfaction of the relevant Council.</p>
C7.0 Natural Assets Code	By general rule, this code applies to land within a waterway and coastal protection area, a future coastal refugia area and a priority vegetation area.	<p>This code facilitates the extension of existing marine farming shore facilities that are within the spatial extend of tidal waters. An increase of up to 20% of the area of the existing facility is acceptable without having to rely on the Performance Criteria in clauses C7.6.1 P1.1 and P1.2.</p> <p>More generally, the code regulates development on land within a waterway and coastal protection area, a future coastal refugia area and a priority vegetation area.</p>
C9.0 Attenuation Code	By general rule, this code applies to aquaculture operations.	<p>By general rule, this code requires that aquaculture operations be separated from sensitive uses (e.g., residential uses) as follows:</p> <ul style="list-style-type: none"> 300m, if for marine or estuarine aquaculture operations; or 100m, if for onshore operations. <p>This is to prevent land use conflict and, particularly, unreasonable impacts to sensitive uses via emissions such as noise and odour.</p>
C10.0 Coastal Erosion Hazard Code	By general rule, this code applies to land within a coastal erosion hazard area.	By general rule, use and development of land for Resource Development is exempt from this code.
C11.0 Coastal Inundation Hazard Code	By general rule, this code applies to land within a coastal inundation hazard area.	Use and development of land for Resource Development is exempt from this code.
C12.0 Flood-Prone Areas Hazard Code	By general rule, this code applies to land within a flood-prone hazard area.	By general rule, use and development of land for Resource Development is exempt from this code.
C15.0 Landslip Hazard Code	By general rule, this code applies to land within a landslip hazard area.	By general rule, use and development of land for Resource Development is exempt from this code.

Enquiries

If you have any enquiries in relation to this information sheet, please contact the State Planning Office within the Department of Premier and Cabinet by telephone at 1300 703 977 or by email at stateplanning@dpac.tas.gov.au.

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Attachment I

Below is a list of the categorisation of the Resource Development and Resource Processing use classes within the 23 generic zones of the SPPs:

Zone	Resource Development	Resource Processing
8.0 General Residential Zone	Prohibited.	Prohibited.
9.0 Inner Residential Zone	Prohibited.	Prohibited.
10.0 Low Density Residential Zone	Prohibited.	Prohibited.
11.0 Rural Living Zone	No Permit Required, if for grazing; Discretionary, if: <ul style="list-style-type: none"> not for intensive animal husbandry or plantation forestry; or not listed as No Permit Required. Prohibited, if for intensive animal husbandry or plantation forestry.	Discretionary, if not for an abattoir, animal salesyard or sawmilling; and Prohibited, if for an abattoir, animal salesyard or sawmilling.
12.0 Village Zone	Prohibited.	Discretionary, if not for an abattoir, animal salesyard or sawmilling; and Prohibited, if for an abattoir, animal salesyard or sawmilling.
13.0 Urban Mixed Use Zone	Prohibited.	Discretionary, if for food or beverage production; and Prohibited, if not for food or beverage production.
14.0 Local Business Zone	Prohibited.	Discretionary, if for food or beverage production; and Prohibited, if not for food or beverage production.
15.0 General Business Zone	Prohibited.	Discretionary, if for food or beverage production; and Prohibited, if not for food or beverage production.
16.0 Central Business Zone	Prohibited.	Discretionary, if for food or beverage production; and Prohibited, if not for food or beverage production.
17.0 Commercial Zone	Prohibited.	Discretionary, if for food or beverage production; and Prohibited, if not for food or beverage production.

Zone	Resource Development	Resource Processing
18.0 Light Industrial Zone	Prohibited.	Discretionary.
19.0 General Industrial Zone	Prohibited.	Permitted.
20.0 Rural Zone	No Permit Required.	Permitted.
21.0 Agriculture Zone	<p>No Permit Required, if:</p> <ul style="list-style-type: none"> • on land other than prime agricultural land; or • an agricultural use, excluding plantation forestry, on prime agricultural land if it is dependent on the soil as the growth medium or conducted in a manner which does not alter, disturb or damage the existing soil profile or preclude it from future use as a growth medium; and <p>Discretionary, if not listed as No Permit Required.</p>	Discretionary.
22.0 Landscape Conservation Zone	<p>Discretionary, if not for intensive animal husbandry or plantation forestry; and</p> <p>Prohibited, if for intensive animal husbandry or plantation forestry.</p>	Prohibited.
23.0 Environmental Management Zone	<p>Permitted, if:</p> <ul style="list-style-type: none"> • for grazing; and • an authority under the <i>National Parks and Reserve Management Regulations 2019</i> is granted by the Managing Authority, or approved by the Director-General of Lands under the <i>Crown Lands Act 1976</i>. <p>Discretionary, if not listed as Permitted.</p>	Discretionary.
24.0 Major Tourism Zone	Prohibited.	<p>Discretionary, if for food or beverage production; and</p> <p>Prohibited, if not for food or beverage production.</p>
25.0 Port and Marine Zone	Prohibited.	<p>Discretionary, if for:</p> <ul style="list-style-type: none"> • marine, port, shipping and transport purposes; or • aquaculture or fish processing.

Zone	Resource Development	Resource Processing
		Prohibited, if not listed as Discretionary.
26.0 Utilities Zone	Prohibited.	Prohibited.
27.0 Community Purpose Zone	Prohibited.	Prohibited.
28.0 Recreation Zone	Prohibited.	Prohibited.
29.0 Open Space Zone	Discretionary, if for: <ul style="list-style-type: none"> • marine farming shore facility or other facility that relies upon a coastal location to fulfil its purpose; or • grazing. Prohibited, if not listed as Discretionary.	Prohibited.
30.0 Future Urban Zone	Permitted, if for agricultural use, excluding controlled environment agriculture. Prohibited, if not listed as Permitted.	Prohibited.