



Environmental Defenders Office

Review and Amendment of the Local Provisions Schedules (lutruwita/Tasmania)

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This factsheet was last updated on 12 June 2023.

What is this factsheet about?

Almost all land-based development and use is regulated under the Tasmanian Planning Scheme. The Local Provisions Schedules (**LPSs**) are a central component of this statewide planning scheme. LPSs apply the planning zones and codes identified under the State Planning Provisions (**SPPs**) to land in each municipal (council) area.

This factsheet provides information about how the LPSs in Tasmania were made and how they may be amended. This includes information outlining the opportunity for public comment within the amendment process.

Outline

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Read: [Factsheet – Overview of Tasmania’s Resource Management and Planning System](#)

What are LPSs?

The primary role of an LPS is to apply the planning zones and codes identified in the SPPs to land in each municipal (council) area, through a series of maps and overlays. These maps and overlays show where the zones and codes provided for under the SPPs apply in a municipality.

Where the SPPs allow, LPSs can also provide site-specific qualifications, specific area plans, and particular purpose zones which can either sit alongside and/or override the general state-wide provisions in the SPPs.

How the LPSs were made

Since 2017, local councils acting as planning authorities have been preparing draft LPSs for their municipalities.

Many of these LPSs have already been through the process of public consultation and assessment by the Tasmanian Planning Commission (**Commission**). This means that the Tasmanian Planning Scheme already applies to these areas.

Visit: [iPlan](#) shows which municipalities are already subject to the Tasmanian Planning Scheme. By clicking on each municipality's name, you can also view the interim planning scheme in each area where the Tasmanian Planning Scheme is not yet in force.

When and how are LPSs reviewed?

As one of the key planning regulations, LPSs aim to provide for desired planning outcomes for each municipal area by setting the location and boundaries of zones and codes. Over time, changing social, environmental or economic conditions or other emerging issues can give rise to problems with how zones and codes operate to regulate developments and uses which may result in undesirable planning outcomes. It is important that LPSs can be amended to deal with these issues.

It is also important that the LPSs can be updated so that any unanticipated issues arising from their drafting are identified once they are implemented.

In recognition of the importance of ensuring that LPSs remain relevant and useful, LPSs are required to be reviewed every 5 years. The review of each LPS is generally undertaken by the relevant planning authority (council), although the Minister can direct the Commission to undertake a review of an LPS.

The purpose of the review is to ensure that the LPSs “effectively set out the policy objectives for use and development of land to which the LPS applies”, and determine whether the LPS:

- complies with, or is consistent with, the SPPs;
- is consistent with any applicable Regional Land Use Strategy (**RLUS**)
- satisfactorily applies a State Policy
- is consistent with and co-ordinated with neighbouring LPSs
- is in accordance with any Ministerial planning directions.

Unlike the reviews of SPPs, LPS reviews *must* invite public comments on the review.

The planning authority (or the Commission as the case may be) must publish a notice in a newspaper circulating in lutruwita/Tasmania giving notice that a review of an LPS is being undertaken, the matters to which the review relates and inviting comments on the review for not less than 21 days.

The planning authority must then produce a report to the Commission within 90 days of the beginning of the public comment period (or a longer period allowed by the Commission) detailing the conclusions of its review of the LPS. This report must include a statement about whether the LPS requires amendment, needs to be replaced or can continue without amendment.

Who can initiate amendments to an LPS?

An amendment to an LPS may be initiated in a number of ways:

- A planning authority may initiate an amendment process of its own motion
- The Minister may direct amendments to an LPS prepared to ensure compliance with the SPPs, RLUS, State Policies, and/or Ministerial planning directions; or
- Any person may request that an LPS be amended using the form prescribed by the planning authority or Commission and on payment of the associated fee.

Where a person requests an amendment to the zoning or use or development of one or more parcels of land, the request must be signed by each landowner and be accompanied by the written permission of each owner of the land. The planning authority must consider any application for the amendment of its LPS and, within 42 days (or a longer period provided by the Commission), decide whether to proceed with and prepare the proposed amendment (with or without modification).

No public comment is invited on a proposed LPS amendment at this stage.

If the planning authority refuses to proceed with the requested amendment, the applicant for the amendment may ask the Commission to review the planning authority's decision.

Combined LPS amendment and permit applications

Requests to amend LPSs can be combined with development permit applications. This option will usually be preferred where a person is seeking a permit for development or use that would otherwise be prohibited under the LPS, or for large or complex proposals that require special planning consideration.

If the planning authority agrees to proceed with the LPS amendment, the planning authority must decide whether to grant a permit to the proposal (either with or without conditions) or refuse a permit. This decision is to be made as if the scheme had been amended in accordance with the draft LPS amendment.

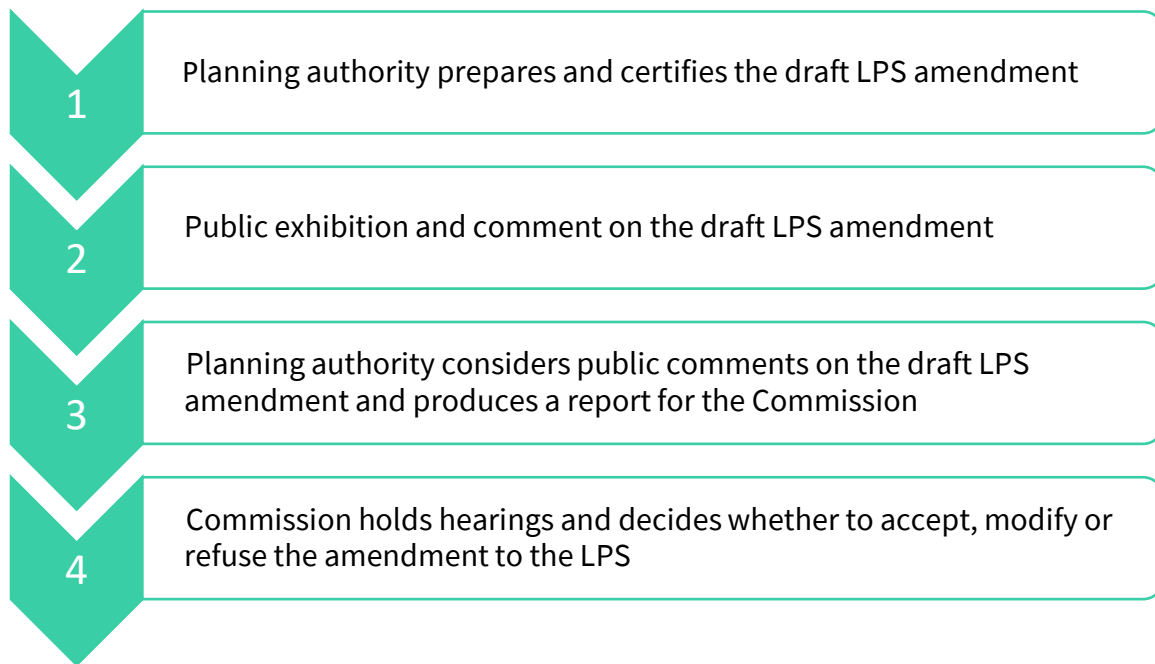
What amendments can be made to LPSs?

Under the *Land Use Planning and Approvals Act 1993* (**LUPA Act**), any proposed amendments to the SPPs must satisfy the following criteria (referred to as the **LPSs Criteria**):

- contains all the provisions that the SPPs specify must be contained in an LPS
- is in accordance with [section 32](#) of the LUPA Act
- LPSs must further the [objectives](#) of the LUPA Act, which includes the Resource Management and Planning System objectives
- LPSs must be consistent with each [State Policy](#)
- LPSs must satisfy the relevant criteria in relation to the [TPPs](#)
- LPSs must, as far as practicable, be consistent with the applicable RLUS
- LPSs must have regard to any relevant strategic plan, prepared under [section 66](#) of the *Local Government Act 1993*
- LPSs must, as far as practicable, be consistent with and co-ordinated with any neighbouring LPSs
- LPSs must have regard to safety requirements set out in the standards prescribed under the [Gas Safety Act 2019](#).

What is the process for amending LPSs?

Generally, proposed amendments to the LPSs will follow the following process.



Further detail on each of these steps is outlined below.

Step 1: Planning authority prepares and certifies draft LPS amendment

Generally, the planning authority is responsible for preparing any draft amendment to its LPS. The planning authority must certify that the draft amendment meets the requirements of the LUPA Act, including the LPS Criteria.

Where it has been directed to prepare the amendment by the Minister, the planning authority must prepare and certify the amendment within the time specified in the notice from the Minister. If the amendment has been initiated by a request by another person, the planning authority must prepare and certify the draft amendment within 42 days of the request.

The planning authority must give notice of the proposed amendment and the date of the public exhibition period to certain regulators and State agencies like TasWater or TasNetworks. It must also provide a copy of the draft amendment and certificate to the Commission within 7 days.

Step 2: Public exhibition and comment on the draft LPS amendment

Generally, as soon as practicable after preparing and certifying the draft amendment, the planning authority must place the draft amendment on public exhibition for 28 days and invite public representations. The Commission may exempt a proposed LPS amendment from the need for public exhibition for a limited number of reasons including, for example, the amendment is urgent, it corrects a clerical mistake, it clarifies, simplifies or removes an inconsistency with the SPPs, it brings the LPS into conformity with a State Policy, or any other “prescribed purpose”.

Step 3: Planning authority produces a report for the Commission

Within 35 days after the end of the exhibition period (or such longer period as allowed by the Commission), the planning authority must prepare a report to the Commission that provides:

- copies of all representations received (both within and outside the exhibition period);
- a statement of the planning authority's opinion as to the merit of each representation and whether the draft amendment should be modified to take account of the representation;
- a statement as to whether the planning authority is satisfied the draft amendment meets the LPS Criteria; and
- any recommendations as to the draft LPS amendment the planning authority sees fit.

The planning authority's report to the Commission is not to contain any recommendation to the effect that the SPPs should be altered.

Step 4: Commission holds hearings and decides whether to accept, modify or refuse the amendment to the LPS

Where adverse public representations on a proposed amendment have been received by the planning authority, the Commission must hold hearings as soon as practicable after receiving the planning authority's report.

Following any hearings, the Commission must consider:

- the planning authority's report and the draft amendment of an LPS to which it relates
- the information obtained at the hearings
- whether it is satisfied that the draft LPS amendment meets the LPS criteria
- whether modifications ought to be made to the draft LPS amendment; and
- whether there are any matters of a technical nature relevant to the implementation of the amendment to the LPS.

The Commission may then:

- direct the planning authority to modify the draft amendment in the manner specified in the Commission's notice
- modify the draft amendment itself and notify the planning authority of the Commission's modification
- reject the draft amendment of the LPS and direct the planning authority to –
 - submit to the Commission a substitute draft amendment of an LPS within the period specified in the direction; or

- substantially modify a part of the draft amendment of the LPS and submit to the Commission the part of the draft amendment of the LPS, as so modified, within 28 days or a longer period allowed by the Commission
- substantially modify the draft amendment itself and notify the planning authority of the Commission's modification; or
- reject the draft amendment and notify the planning authority of the rejection.

Any substantially modified draft LPS amendment will undergo a further period of public exhibition with the amendment process being repeated from step 2.

If the Commission is satisfied the draft LPS amendment (including any modifications directed to be made to it) meets the LPS criteria, the Commission must approve the LPS amendment, otherwise, it must refuse to approve the draft LPS amendment. The Commission's approval or refusal of a draft LPS amendment must be made within 90 days of receipt of the planning authority's report or such longer period as allowed by the Minister.

The amendment to the LPS comes into effect either on the day specified in the amendment, or within 7 days of the Commission signing the LPS amendment approval.

Visit: The [Tasmanian Planning Commission](#) has published a flowchart breaking down the above steps in a visual form.

Visit: The [Tasmanian Planning Commission](#) website has a list of current assessments and hearings.

Combined LPS amendment and permit applications

The process for the consideration and assessment of a combined LPS amendment and permit largely mirrors the LPS amendment process, however:

- In Step 2, the public exhibition of the draft LPS amendment must also provide notice that the relevant permit material is available for inspection at the planning authority offices and website. The relevant permit material includes the permit application and associated materials submitted to the planning authority and the planning authority's decision on the application. Public representations can address both the draft LPS amendment and the permit.
- In Step 3, the planning authority report should include and address the merit of any public representations received concerning the permit application.
- In Step 4, the Commission must consider the representations, statements and recommendations provided to the Commission concerning the permit application. At the same time as deciding whether to approve the LPS amendment, the Commission may:
 - confirm the planning authority's decision on the permit application

- if the planning authority decided to grant a permit – refuse the permit, or modify or delete a condition or restriction attached to the permit or add new conditions or restrictions to the permit
- if the planning authority decided to refuse to grant a permit – grant a permit subject to the conditions or restrictions that the Commission thinks fit; or
- if the Commission refused to approve the draft LPS amendment – refuse the permit.

Exercising your right to comment on proposed LPS amendments

Unless the proposed amendment to the LPSs has been exempted from the need for public exhibition by the Commission, the public will have an opportunity to comment on proposed amendments to LPSs.

The relevant planning authority must publish notices concerning the exhibition of proposed LPS amendments on its website and in a newspaper circulating across lutruwita/Tasmania. This notice should specify:

- the exhibition period (28 days)
- where all the relevant exhibition documents can be viewed by the public at the planning authority office(s) and on its website
- the public is invited to make a representation to the public authority concerning the draft amendment during the exhibition period
- how the public can send their representation to the planning authority.

All representations on a proposed amendment to an LPS must be made within the comment period of 28 days.

Visit: The [Tasmanian Planning Commission](#) website for information about opportunities to comment on its latest assessments.

NB: To receive up-to-date information about important planning assessments the Commission is undertaking, including on any proposed amendments to the SPPs, send an email to tpc@planning.tas.gov.au

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