

Subject: Preparing draft Local Provisions Schedules (LPSs) for exhibition

Purpose: To provide advice to planning authorities on:

- (a) preparing draft LPSs; and
- (b) the supporting information to be submitted to the Commission to demonstrate that the draft LPS is suitable for exhibition.

1.0 Introduction

The Tasmanian Planning Scheme has two parts: State Planning Provisions (SPPs) and Local Provisions Schedules (LPSs).

The SPPs are those parts of the Tasmanian Planning Scheme that are common across the state, where they apply. They include the operational provisions of the planning scheme, zone provisions, code provisions and a set of requirements for the LPSs. Each planning authority must complete its draft LPS using the required structure [clause LP1.1.1 of the SPPs].

LPSs apply to each municipal area, and include the mapping of zones and overlays, local area objectives (LAOs), lists to relevant codes, particular purpose zones (PPZs), specific area plans (SAPs), and any site-specific qualifications (SSQs).

This is a guide to the process for preparing a draft LPS by planning authorities and the Commission's requirements for recommending to the Minister for Planning and Local Government (the Minister) whether a draft LPS is suitable for exhibition.

2.0 Process

The planning authority may prepare a draft LPS and submit it to the Commission [section 35(1) of *Land Use Planning and Approvals Act 1993* (the Act)] and the planning authority must be satisfied that the draft LPS meets the LPS criteria in section 34 [section 35(7) of the Act].

After considering a draft LPS submitted to it by a planning authority, the Commission may direct a planning authority to exhibit [section 35B(4) of the Act] and to do so must be satisfied that the LPS meets the LPS criteria [section 35B(4A)(a) of the Act] or that an LPS criteria outstanding issues notice can form part of the relevant exhibition documents [section 4A(b)]. The savings and transitional provisions in Schedule 6 also need to be met. These are particularly relevant to PPZs, SAPs, SSQs and code-applying provisions covered by Schedule 6 of the Act.

These are the first steps in the process of assessing a draft LPS. The full process is shown in the [flowchart on the Commission's website](#)¹.

To facilitate the Commission's assessment of the draft LPS, planning authorities must provide a supporting report to demonstrate that the draft LPS meets the LPS criteria. The report should set out where the draft LPS is consistent with the LPS criteria and Guideline No. 1. The report should also detail any additional information and the rationale where a zone or code has been applied using considerations that vary from those that are set out in Guideline No. 1.

3.0 Preparation of zone maps

A version of the current interim planning scheme or planning scheme maps for the municipal area can be obtained from the LIST.

In addition to the LPS requirements in LP1.0 of the SPPs, the zone maps must be prepared with reference to **Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application** issued by the Commission under section 8A of the Act.

For further technical advice on preparing zone maps see **Practice Note 7 – Draft LPS mapping: technical advice**.

¹ http://www.planning.tas.gov.au/publications/flowcharts_and_diagrams.

4.0 Requirements for overlay maps

As set out in the LPS Requirements in the SPPs, each LPS must contain overlay maps that provide for the spatial application of codes, specific area plans, local area objectives and site-specific qualifications to land in the municipal area.

The relevant state agency or authority determined maps used as a basis for generating overlays are to be obtained from the LIST.

The planning authority is to prepare their local overlay maps.

In addition to the requirements under section 34 of the Act, the code overlay maps must be prepared taking into account the code application guidance in **Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application**.

The LPS requirements have specific instructions for code overlay maps.

For further technical advice on preparing code overlays see **Practice Note 7 – Draft LPS mapping: technical advice**.

5.0 The written document

The planning authority is to complete the draft LPS in word version and provide it to the Commission to load into the Content Management System (CMS) in iplan.

A word version of the required structure in Appendix A of the LPS requirements of the SPPs can be obtained from the Commission.

A PDF version of the written document is to be used by the planning authority for the public exhibition of the draft LPS.

Specific guidance on preparing code lists, PPZs, SAPs and SSQs can be found in **Practice Note 8 - Draft LPS written document: technical advice**.

6.0 Transitioning provisions

The transitional provisions under Schedule 6 of the Act establish the rules that enable the existing PPZs, SAPs, SSQs and certain code-applying provisions in current planning schemes to transition into draft LPSs.

The Schedule defines PPZs, SAPs, SSQs and code-applying provisions.

The decision to transition an existing PPZ, SAP, SSQ or code-applying provision to the draft LPS will be made by the Minister.

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A Minister's Advisory Statement has been issued that provides further information on this process – Transitional arrangements for existing provisions. This is available from the Department of Justice's (DOJ) [Tasmanian Planning Reform website](#)².

All PPZs, SAPs, SSQs and code-applying provisions that have been declared to be transitioned by the Minister must be included in a draft LPS.

These PPZs, SAPs, SSQs and code-applying provisions must be drafted to ensure that their terms and structure are consistent with the drafting style and conventions of the SPPs.

The Minister's Advisory Statement states that:

- a PPZ, SAP or SSQ declared not suitable by the Minister for automatic transfer to a draft LPS through transitional provisions may still be considered for inclusion in the draft LPS, provided it can meet the requirements in the Act; and
- code-applying provisions declared not suitable by the Minister for automatic transfer to a draft LPS may also be considered for inclusion in the draft LPS, provided it can meet the LPS requirements in the SPPs, the requirements for the contents of LPSs in Part 3A, Division 2 of the Act, and Guideline No.1.

7.0 New PPZs, SAPs and SSQs

If a planning authority intends that a new PPZ, SAP or SSQ be included in the draft LPS, these may be included provided they are capable of meeting the requirements of section 32(4) of the Act.

The Commission will require justification and demonstration that the draft LPS meets section 32(4) of the Act:

An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –

(a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area;
or

(b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.

² <http://www.planningreform.ras.gov.au>.

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Further advice on the justification and information requirements is included in Appendix A of this Practice Note and in **Practice Note 8 - Draft LPS written document: technical advice**.

8.0 Supporting Report

A report including the following information must be provided to the Commission in support of the draft LPS to demonstrate that the draft LPS meets the LPS criteria.

The supporting report must demonstrate how the draft LPS meets the requirements of section 34 of the Act including how it:

- furthers the Schedule 1 objectives of the Act (parts 1 and 2) [section 34(2)(c)];
- is consistent with each State Policy [section 34(2)(d)]:
 - State Coastal Policy 1986
 - State Policy on Water Quality Management 1997
 - State Policy on the Protection of Agricultural Land 2009
 - National Environment Protection Measures;
- as far as practicable, is consistent with the relevant regional land use strategy (RLUS) [section 34(2)(e)];
- has regard to the strategic plan prepared under section 66 of the *Local Government Act 1993* [section 34(2)(f)];
- as far as practicable, is consistent and coordinated with a LPS for an adjacent municipal area [section 34(2)(g)];
- has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000* [section 34(2)(h)];
- designates land as being reserved for public purposes (if relevant) [section 32(2)(g)];
- contains all the provisions that the SPPs specify must be contained in and LPS [section 32(4)(a)] by meeting the LPS Requirements in the SPPs:
 - must include a zone map (LP1.2.1);
 - must differentiate between Rural Living A, B, C and D zones (LP1.2.2);
 - must be in accordance with the specified structure (see Appendix A- Local Provisions Schedule Structure of the SPPs and **Practice Note 8 – Draft LPS written document: technical advice**) and meet requirements for PPZs, SAPs and SSQs (LP1.1, LP1.4 LP1.5 and LP1.6);

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- must provide overlay maps for the purposes of the application of the codes (LP1.7); and
- justify why a code overlay map should vary from the required state-wide maps (LP1.7.3, LP1.7.7, LP1.7.8 and LP1.7.11);
- must not contain provisions inconsistent with a provision in section 11 and 12 of the Act;
- is consistent with zone and code application guidance provided in **Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application**;
- transitions all PPZs, SAPs and SSQs required by clause 8, 8A and 8C of Schedule 6 of the Act;
- for other PPZs, SAPs and SSQs, meets section 32(4);
- transitions all code-applying provisions required by clause 8D of Schedule 6 of the Act;
- is consistent with the drafting conventions of the SPPs in **Practice Note 5 - Tasmanian Planning Scheme drafting conventions**;
- is consistent with **Practice Note 7 – Draft LPS mapping: technical advice**; and
- is consistent with **Practice Note 8 - Draft LPS written document: technical advice**.

A suggested outline for the Supporting Report is included in Appendix A and a submission checklist is in Appendix B.

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

Peter Fischer
Acting Executive Commissioner
Tasmanian Planning Commission

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Appendix A: Outline for Supporting Report

Introduction

This report supports the submission of the <insert name> draft Local Provisions Schedule (LPS) prepared and submitted to the Commission under section 35(1) of the *Land Use Planning and Approvals Act 1993* (the Act) for assessment as to whether it is suitable for exhibition, under to section 35B(4) of the Act. The report demonstrates that the draft LPS meets the LPS criteria as required by section 34(2) of the Act.

State Policies

Statement of consistency with the:

- *State Coastal Policy 1986*
- *State Policy on Water Quality Management 1997*
- *State Policy on the Protection of Agricultural Land 2009*
- *National Environment Protection Measures*

Regional Land Use Strategy (RLUS)

Statement of, as far as is practicable, consistency with the RLUS including a list of local strategic analysis prepared in accordance with the RLUS and demonstration of how it is consistent with the RLUS.

Where the zoning of land varies from that existing in an interim planning scheme currently in effect, this should include a statement of the reasons why the planning authority formed the opinion that the proposed zoning is consistent with the RLUS. Consistency can be demonstrated by referring to relevant parts of the RLUS and identifying:

- (a) those areas of the RLUS that are relevant;
- (b) any parts of the RLUS with which the proposed zoning is inconsistent; and
- (c) any alternatives considered to achieve greater consistency with the RLUS and state why those alternatives were not practicable, noting that maintaining the current zoning is an alternative.

Zones

Set out how the application of all zones (excluding particular purpose zones subject to transitioning provisions) is consistent with **Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application**, including the rationale for applying the zones to particular areas and the planning outcome intending to achieve. Detail where the zoning of land varies from that existing in an interim planning scheme currently in effect. Detail any additional information and the rationale where a zone has been applied using considerations that vary from those that are set out in Guideline No. 1.

Codes

Set out how the application of all codes (excluding code-applying provisions subject to transitioning provisions) is consistent with **Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application**, including the rationale for the spatial application of the codes to particular areas and reasons for inclusion of listed matters and the planning outcome intending to achieve. Detail any additional information and the rationale where a code has been applied using considerations that vary from those that are set out in Guideline No. 1.

Justify why a code overlay map has been modified, and identify the modifications from required state produced maps (LP1.7.3, LP1.7.8, LP1.7.9 and LP1.7.12), or a statement that they have not been modified.

Where modifying the Department of Premier and Cabinet mapping for the Coastal Erosion Hazard Code, Coastal Inundation Hazard Code or Landslip Hazard Code the modifications must be supported by a report prepared by a suitably qualified person and include:

- a site specific survey;
- the modelling methodology; and
- the changes to the parameters used in the modelling and an assessment of how they differ from any comparable parameters used in generating the Department of Premier and Cabinet mapping.

Set out the methodology for deriving the priority vegetation area overlay based on the LPS requirements specified in LP1.7.5(c).

Justifies why the priority vegetation overlay derived in accordance with LP1.7.5(c) has been modified in accordance with LP1.7.5(d), and identify those modifications.

SAPs, PPZs and SSQs

List all PPZs, SAPs and SSQs that are included within the LPS and were existing at 17 December 2017, outlining how these have been amended to be consistent with the SPPs (if relevant).

List all PPZs, SAPs and SSQs that were existing at 17 December 2015 and the Minister has declared are not to be included in the LPS [Schedule 6, clause 8(4)].

List all PPZs, SAPs and SSQs that the Minister has declared are to be included in the LPS, outlining how these have been amended to be consistent with the SPPs (if relevant).

List all new PPZs, SAPs and SSQs. This is to be accompanied by a statement setting out:

- if the new PPZ, SAP or SSQ is for a site or area that the Minister has declared is not to be included in the LPS under the transition provisions in Schedule 6;
- why the intended use and development cannot be provided for under the provisions of the SPPs and why special provisions are required e.g. why an SPP zone is not appropriate;
- if for a PPZ that overrides clause C1.2.1, C2.2.1 or C5.2.1, as provided for in the SPPs, why the PPZ should be overriding;
- why the provision(s) is necessary to substitute for, be in addition to, or modification of, the SPPs; and
- how the intended use or development is of significant social, economic or environmental benefit with respect to either the State, region or municipal area; or
- the environmental, economic, social or spatial qualities that are unique to the subject land and why they are unique.³

Code-applying provisions

List all code-applying provisions existing at 17 December 2015 that the Minister has not declared to be included in the LPS and either:

- (a) outline how these have been amended to be consistent with the SPPs (if relevant); or
- (b) list those where the Minister has declared that a requirement of the SPPs does not apply [Schedule 6, clause 8D(5)].

List all code-applying provisions the Minister has declared are not to be included in the LPS [Schedule 6, clause 8D(3)].

Consistency and coordination with adjacent municipal area

A statement of how the draft LPS has been prepared to ensure consistency and coordination with any draft LPSs for adjacent municipal areas.

Schedule 1 Objectives

Statement as to how the draft LPS meets the Schedule 1 objectives.

³ Note: the PPZ, SAP and SSQ are part of the LPS and must also meet the LPS criteria including being consistent with the regional land use strategy.

Other

Any other relevant matters including:

- how the draft LPS has had regard to the strategic plan prepared under section 66 of the *Local Government Act 1993* [section 34(2)(f)];
- any regard had to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000* [section 34(2)(h)];
- description and justification of any land designated as being reserved for public purposes (if relevant) [section 32(2)(g)]; and
- a statement that the draft LPS does not contain any provisions that are inconsistent with a provision in section 11 and 12 of the Act.

Appendix B: Draft LPS submission checklist

- A Word and a PDF version of the written document that is consistent with the structure in Appendix A of the SPP LPS Requirements.
- Maps including:
 - (a) PDF zone maps, that conform to the technical mapping requirements in **Practice Note 7 – Draft LPS mapping: technical advice**;
 - (b) PDF maps of each relevant code series or overlays, with the required outline, hatching and annotations in **Practice Note 7 – Draft LPS mapping: technical advice**; and
 - (c) ArcGIS or MapInfo GIS files for zones, zone boundaries, code overlays and other overlays, with the required GIS table structure.
- A Supporting Report covering all the information set out in this Practice Note.
- PDF versions (where available) of:
 - (a) any applied, adopted or incorporated document in the draft LPS (NB: this excludes documents applied, adopted or incorporated in the SPPs);
 - (b) any relevant document incorporated or referred to in the relevant regional land use strategy under section 5A(5) of the Act and used to justify the zoning (including for a PPZ), overlay maps, inclusion of listed matters in the code lists, SAPs or SSQs;
 - (c) council's latest strategic plan prepared under section 66 of the *Local Government Act 1993*;
 - (d) any reports prepared by a suitably qualified person and relied upon to modify the Department of Premier and Cabinet mapping for the Coastal Erosion Hazard Code, Coastal Inundation Hazard Code or Landslip Hazard Code;
 - (e) any applicable airport master plan;
 - (f) confirmation from the Tasmania Fire Service that any bushfire-prone areas overlay map is applied in accordance with their requirements; andany other reports, studies or strategic analysis relied on in the Supporting Report [including those relied on to justify inclusion of a PPZ, SAP or SSQ against section 32(4)].
- Confirmed minutes from the planning authority meeting or from any other Council delegation confirming the resolution of the planning authority to submit a draft LPS to the Commission. Note: it is sufficient for the agenda item to be provided in the first instance and for the confirmed minutes to be provided at a later date.