

Subject: Local Provisions Schedules Reviews

Purpose: To provide guidance to planning authorities about the requirements for Local Provisions Schedules Reviews

1.0 Introduction

Section 35 of the Act requires a Local Provisions Schedule (LPS) be reviewed every five years it is in effect. The following sections of the *Land Use Planning and Approvals Act 1993* (the Act) are pertinent to a review:

- section 35N of the Act outlines the purpose of the review, which is to determine the currency of the LPS against relevant land use planning policy objectives, the SPPs, the regional land use strategy, State policies, and LPSs in adjacent municipalities;
- section 35O of the Act states the planning authority must conduct a review of its LPS after the end of each 5-year period after an LPS has been in effect;
- section 35P outlines the process for the review, including exhibition requirements, consideration of public comments, and lodgement of a report to the Commission about the outcomes of the review; and
- the report is due 90 days after the review has commenced.

2.0 Purpose and scope of the review

Section 35N states a review must determine:

- (a) whether the LPS or part effectively sets out the policy objectives for use and development of land to which the LPS applies;
- (b) whether the LPS or part complies with, or is consistent with, the SPPs;
- (c) whether the LPS or part is consistent with any applicable regional land use strategy;
- (d) whether the LPS or part satisfactorily applies a State Policy;
- (e) whether, as far as practicable, the LPS or part is consistent with and co-ordinated with the LPS that applies to municipal areas that are adjacent to the municipal area to which the LPS applies;
- (f) whether the LPS or part is in accordance with any direction issued by the Minister under the Act.

Essentially, the review should establish:

- what has changed since the LPS came into effect or was last reviewed;
- whether the LPS reflects the requirements of all State planning policy documents;

- what is required to make the LPS current; and
- how the planning authority proposes to update the LPS if required.

The planning authority should focus its review on those matters that have changed in the time since the LPS came into effect and matters raised in the public comments made during the notification period.

Section 35N(a) of the Act indicates the scope of the review includes consideration of whether the LPS should be updated to meet the policy objectives for use and development of land. The relevant policy objectives include the Tasmanian Planning Policies, any applicable local land use strategies, and matters described in the LPS criteria in section 34(2) of the Act that are not otherwise listed in section 35N.

3.0 Time period for conduct of the review

Section 35O(2) of the Act requires a planning authority to commence a review after the end of each 5-year period after an LPS has been in effect. Although the Act does not specify when a review is to commence, it is the Commission's expectation the review would commence no later than 6 months after the 5-year period has been reached. It is otherwise noted the Minister may direct a planning authority or the Commission to undertake a review.

Section 35P(1)(e) specifies the planning authority must provide a report on its review to the Commission within 90 days of the review being commenced. For calculating the due date for the report, the 90-day period commences on the day the planning authority publishes notice that the review is to be conducted. A longer period may be granted by the Commission if appropriate reasons are provided, for example, if changes to a regional strategy were proposed, which may affect the outcomes of a review. Alternatively, the review could proceed to determine whether the LPS remains current with the other matters specified in section 35N.

4.0 Notification requirements

At the commencement of the review process, the planning authority must publish a notice in a newspaper circulating generally in the area of Tasmania where the review is to be conducted (section 35P(1)). The period of notice must be no less than 21 days and specify the matters to which the review relates, for example, whether the review relates to all or only some of the matters specified in section 35N. For the period specified in the notice, the planning authority must receive comments from persons and bodies.

For consistency, a standard exhibition notice, that meets the requirements of the Act, is provided at Appendix A.

5.0 Reporting requirements

Following exhibition, the planning authority is to provide a report to the Commission, which provides the details and conclusions of the review. A template for the report is included at Appendix B. This template is intended as a guide and can be modified as necessary to suit the planning authority's needs and the issues relevant to the review.

The report must contain a statement of the opinion of the planning authority, as to whether the LPS requires amendment, needs to be replaced with another LPS, or can continue without amendment. In addition, the report must contain an itemised response to each of the relevant matters identified in section 35N. It is also expected the report will be accompanied by a copy of:

- the planning authority's decision on the conclusions of the review (a formal decision under delegation or by resolution is required even where there are no comments received);
- the minutes of the planning authority's meeting including reasons for the decision, or delegated decision if determined under officer delegation (confirming the officer is acting under delegation);
- the comments received during the notice period and the planning authority's response to the comments; and
- the names and addresses of those who made comments (such as the planning authority mail merge or email list to assist the Commission in contacting parties, if required).

If the review determines the LPS requires amendment, the planning authority should attach any evidence, such as technical reports, that it considers would support such amendments. However, in cases where this is not possible, the report should identify further work would need to be undertaken to support an amendment. In these circumstances, it would be appropriate for the planning authority to outline its plan to complete the necessary work and the anticipated timeframe to prepare and certify a draft amendment.

6.0 Review outcomes

The Commission must, as soon as practicable after receiving the planning authority's report, give to the Minister its recommendations in relation to the review (section 35P(8)). In its consideration of the planning authority's report, the Commission may hold consultation sessions with the planning authority and relevant stakeholders. The Commission's recommendations to the Minister may relate to whether future action, such as the preparation of a draft amendment, needs to be taken to ensure the LPS meets relevant land use planning policy objectives, the SPPs, the regional land use strategy, State policies, or is consistent with LPSs in adjacent municipalities. As a result of any recommendations made by the Commission, the Minister, under section 40C(1) of the Act, may decide to direct a planning authority to prepare draft amendments of an LPS. Alternatively, the planning authority may decide to undertake an amendment under section 40D(b) of the Act.

Any draft amendments arising from the review will be assessed through the normal processes set in sections 37 through to 40S of the Act. Generally, these draft amendments should be prepared and certified individually.

All documentation related to the review, including the planning authority's report, a copy of the comments received during the notice period, and the Commission's recommendations, will be published on the Commission's website.

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

John Ramsay

Executive Commissioner

Tasmanian Planning Commission

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Appendix A: Exhibition notice for newspaper

Tasmanian Planning Scheme

Review of <municipal area name> Local Provisions Schedule (LPS)

EXHIBITION NOTICE - INVITATION FOR COMMENT

The <insert planning authority name> has commenced a review of the <insert municipal area name> LPS. The <insert planning authority name> invites written comments from all persons and bodies about the matters to which the review relates.

The review relates to the matters specified in section 35N of the *Land Use Planning and Approvals Act 1993* (the Act), namely whether the LPS is consistent with relevant land use planning policy objectives, the SPPs, the <insert name> Regional Land Use Strategy, State policies, and LPSs that apply in adjacent municipalities.

The relevant exhibition documents are available for viewing during normal business hours at the <insert planning authority name> offices, Monday to Friday at <insert address>. These documents may also be viewed and downloaded from the <insert planning authority name> website at <insert website address>.

Comments can be made in writing to the <insert planning authority name> from <insert day and date> until close of business <insert day and date>.

Please email comments to <insert e-mail address> or post to the <insert planning authority name and address>.

Following the close of the period for public comment, the planning authority will report to the Tasmanian Planning Commission on the outcomes of the review, including whether the LPS requires amendment.

Appendix B: Local provisions schedule review report template

[Municipality Name] Local Provisions Schedule Review

Date: [insert]

Purpose: To report to the Tasmanian Planning Commission on the outcomes of the planning authority's review of the [insert name] Local Provisions Schedule and recommend whether the LPS requires amendment, replacement, or can continue without amendment

1.0 Background

Section 35 of the *Land Use Planning and Approvals Act 1993* (the Act) requires a Local Provisions Schedule (LPS) to be reviewed every five years it is in effect. The following sections of the Act are pertinent to a review:

- section 35N of the Act outlines the matters to be determined by the review, including the currency of the LPS against relevant land use planning policy objectives, the SPPs, the regional land use strategy, State policies, and LPSs in adjacent municipalities;
- section 35O of the Act states the planning authority must conduct a review of its LPS after the end of each 5-year period after an LPS has been in effect;
- section 35P outlines the process for the review, including exhibition requirements, consideration of public comments, and lodgement of a report to the Commission about the outcomes of the review; and
- a report is to be provided to the Commission within 90 days after the review has commenced.

2.0 Scope of review

Section 35N states a review must determine:

- (a) whether the LPS or part effectively sets out the policy objectives for use and development of land to which the LPS applies;
- (b) whether the LPS or part complies with, or is consistent with, the SPPs;
- (c) whether the LPS or part is consistent with any applicable regional land use strategy;
- (d) whether the LPS or part satisfactorily applies a State Policy;

- (e) whether, as far as practicable, the LPS or part is consistent with and co-ordinated with the LPS that applies to municipal areas that are adjacent to the municipal area to which the LPS applies;
- (f) whether the LPS or part is in accordance with any direction issued by the Minister under the Act.

Section 35N(a) requires consideration of whether the LPS should be updated to meet the policy objectives for use and development of land. The relevant policy objectives include the Tasmanian Planning Policies, relevant local land use strategies, and matters described in the LPS criteria in section 34(2) of the Act that are not otherwise listed in section 35N.

3.0 Time period for conduct of the review

Insert details.

4.0 Notification

Insert details about how notification was undertaken and broad details of the public comments received.

5.0 Reporting requirements

The planning authority is to provide a report to the Commission, which provides the details and conclusions of the review. The report must contain a statement of the opinion of the planning authority, as to whether the LPS requires amendment, needs to be replaced with another LPS, or can continue without amendment. In addition, the report must contain an itemised response to each of the relevant matters identified in section 35N.

6.0 Review outcomes

6.1 Assessment of the matters in section 35N of the Act

Insert statements to explain how the planning authority determined whether the LPS was current considering the matters in section 35N of the Act. The following matters should be addressed for each of the following:

- policy objectives;
- State Planning Provisions;
- Regional land use strategy;
- State Policies; and
- Consistency with adjacent Local Provisions Schedules.

6.1.1 [insert issue]

Relevant public comments: [Submitter name / submission number]

- For example, insert details about how the planning authority determined whether the LPS effectively sets out the policy objectives for use and development of land to which the LPS applies; and
- Include a summary of any relevant public comments.

Discussion

- Respond to relevant public comments.
- Discuss relevant issues including whether or not the LPS should be amended, or if further work is required to determine if an amendment is required.
- If an amendment is required, specify:
 - how and why the LPS needs to be amended;
 - whether any additional work would need to be undertaken or information would need to be obtained to support an amendment;
 - what matters described in the LPS criteria would be most relevant to consideration of an amendment; and
 - the anticipated timeframe for preparation of the amendment.

Recommended actions

- Provide specific details about how the LPS requires amendment;
- Provide a statement that an amendment of the LPS is not required; or
- Provide a statement that further work or information is required to determine if an amendment of the LPS is required.

6.2 Assessment of relevant issues by provision

Include any additional issues examined during the review, ordered by zone, followed by codes/overlays and then written provisions of the LPS. For example, this section may include a zone for a particular site that was specifically considered, perhaps because it was raised in the public comments. For example:

6.2.1 General Residential Zone at [insert site address or locality]

Relevant public comments: [Submitter name / submission number]

- Insert details about the issue; and
- Include a summary of any relevant public comments.

Discussion

- Respond to relevant public comments.
- Discuss relevant issues including whether or not the LPS should be amended, or if further work is required to determine if an amendment is required.
- If an amendment is required, specify:
 - how and why the LPS needs to be amended;
 - whether any additional work would need to be undertaken or information would need to be obtained to support an amendment;
 - what matters described in the LPS criteria would be most relevant to

- consideration of an amendment; and
- the anticipated timeframe for preparation of the amendment.

Recommended actions

- Provide specific details about how the LPS requires amendment;
- Provide a statement that an amendment of the LPS is not required; or
- Provide a statement that further work or information is required to determine if an amendment of the LPS is required

7.0 Other recommendations

Insert any other relevant recommendations, such as changes the planning authority recommends be made to the SPPs.

8.0 Conclusion

Insert any relevant concluding statements.

Appendix A: Recommended LPS Amendments

Insert details.