

Practice Note 9

Subject: Exhibition and reporting of draft Local Provision Schedules (LPSs)

Purpose: To provide guidance on exhibition of Local Provisions Schedules (LPSs) and report about exhibition by the planning authority.

1.0 Introduction

This practice note provides guidance on the requirements for exhibition of draft Local Provisions Schedules (LPSs) and the contents of the planning authority report to the Commission about the exhibition.

2.0 Process

The *Land Use Planning and Approvals Act 1993* (the Act) sets out the requirements for exhibition of a draft LPS and reporting in sections 35B through to 35G.

The full process for assessing a draft LPS is shown in a flowchart on the Commission's website at [www.planning.tas.gov.au/publications/flowcharts and diagrams](http://www.planning.tas.gov.au/publications/flowcharts_and_diagrams).

A more detailed flowchart, including references to the Act, is provided on the planners portal, a site with specialist technical information and resources for council planners on drafting LPSs.

3.0 Exhibition notices

The requirements for exhibition notices for a draft LPS are set out in section 35C of the Act and include the timeframe for public exhibition and that some planning authorities, State Service Agencies and State Authorities must be given notice of exhibition in addition to a published notice.

The draft LPS is to be notified twice in a newspaper circulating generally in Tasmania [section 35C(3)]. The period for making representations is 60 days [section 35C(5)].

To ensure consistency and make it clear that the draft LPS is a component of the Tasmanian Planning Scheme (TPS) a standard exhibition notice, that meets the requirements of the Act, is provided in Appendix A of this Practice Note [section 35C and 35E]. The notice makes it clear that the SPPs and list of provisions required to transition from the interim planning scheme are to be available along with the draft LPS during the exhibition period.

The Commission is to specify the State Service Agencies or State Authorities it considers will have an interest in the draft LPS in its direction to planning authorities to exhibit the draft LPS. A pro forma letter is provided in Appendix B. Specific contact details will be provided with the Commission's direction to planning authorities [section 35B(4)].

Planning authorities are to provide a notice to each other planning authority in the same regional area and to the planning authorities for the adjacent municipal area [section 35C(1)(a) and (b)]. The pro forma letter in Appendix B can be used for this purpose.

4.0 Representations

During the exhibition any person or body may make a representation [section 35E(1)]. However, there are matters specified in section 35E and subject to the transitional provisions of Schedule 6 that are not taken to be representations.

Under section 35E, matters not taken to be representations include:

- (a) a representation to the effect that the content of a provision of the SPPs should be altered [section 35E(4)];
- (b) a matter that does not relate to the contents or merit of the draft LPS [section 35E(5)(a)]; and
- (c) a matter not specifically listed that a representation can be made about, in section 35E(3).

A representation may not be made about a provision included in the draft LPS corresponding to an approved amendment to the interim planning scheme [section 35E(3A)].

An LPS must contain the particular purpose zones (PPZs), specific area plans (SAPs), site-specific qualifications (SSQs) and code-applying provisions that are included in a draft LPS, by reason of the transitional provisions of Schedule 6 of the Act. Any matter contained in a representation that seeks to exclude one or more of these provisions cannot be considered, as those provisions must be included.

5.0 Reporting Requirements

Following exhibition, the planning authority is to provide a report to the Commission [section 35F]. The Act sets out the requirements, including timeframes and content, for providing the report to the Commission.

The report must include [section 35F(2)]:

- a copy of each representation, including any agreed to be accepted after the end of the exhibition period;
- a response to any LPS criteria outstanding issues notice;
- the planning authority's views on the merit of each representation;
- a recommendation on whether the draft LPS should be modified to take into account the representation and the effect on the draft LPS as a whole in implementing the recommendation; and

- a statement on whether the planning authority is satisfied that the draft LPS meets the LPS criteria.

The representations must be numbered and as far as is possible each representation addressed consecutively in the report in the order of the allocated numbers.

In making a recommendation to modify the draft LPS, the planning authority may wish to give consideration to whether a proposed modification is a substantial modification [section 35KB].

Where no representations are received, the planning authority must still consider any recommendations it considers necessary [section 35F(2)(a)]. For example, the planning authority may have identified an error or alternate drafting it would prefer.

The planning authority must identify and include a copy of any representation submitted (either in whole or part) that the planning authority has not taken to be a representation and why the representation (or part) has not been taken to be a representation (both for reasons of transitional provisions and section 35E(5)), or is a representation that cannot be made under section 35E(3A).

If a LPS criteria outstanding issues notice has been exhibited with the draft LPS, the planning authority's report must include a statement containing the planning authority's response to the matters referred to in the notice [section 35F(2)(ba)].

The planning authority has 60 days from the close of the exhibition period to forward its report to the Commission. The Commission may grant an extension of time if requested.

A checklist of the documentation the Commission requires for the report is in Appendix C.

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

October 2021

Appendix A: Exhibition notice for newspaper

Tasmanian Planning Scheme

<municipal area name> Draft Local Provisions Schedule (LPS)

EXHIBITION NOTICE - INVITATION FOR WRITTEN REPRESENTATIONS

The <insert planning authority name> invites written representations on the relevant exhibition documents in relation to the <insert municipal area name> draft Local Provisions Schedule (LPS). The Tasmanian Planning Commission (the Commission) has directed the planning authority to publicly exhibit the <insert municipal area name> draft LPS under section 35B of the *Land Use Planning and Approvals Act 1993* (the Act).

Representations must be related to the matters listed under section 35E of the Act and not be to the effect that the content of the State Planning Provisions should be altered.

The LPS must contain the particular purpose zones, specific area plans, site-specific qualifications and code-applying provisions that are included in the draft LPS by reason of the transitional provisions of Schedule 6 of the Act. Any matter contained in a representation that seeks to exclude one or more of those provisions will not be taken to be a representation.

The LPS may contain provisions corresponding to approved amendments to the interim planning scheme. A representation cannot be made in relation to these provisions. Approved planning scheme amendments may be viewed on the Commission website at www.planning.tas.gov.au or the Austlii website at www.austlii.edu.au.

The relevant exhibition documents in relation to the <insert municipal area name> draft LPS and relevant supporting documents, including the State Planning Provisions (SPPs) and list of provisions required to transition from the <insert municipal area name> Interim Planning Scheme, are available for viewing during normal business hours at the:

- <insert planning authority name> offices, Monday to Friday at <insert address>; and
- the Tasmanian Planning Commission's offices from 9am until 5pm, Monday to Friday at Level 3, 144 Macquarie Street, Hobart.

These documents may also be viewed and downloaded from the <insert planning authority name> website at <insert website address> and the Commission website at www.planning.tas.gov.au.

Representations 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 your representations to <insert e-mail address> or post to the <insert planning authority name and address>.

Appendix B: Exhibition notice for planning authorities, State Service Agency or State authorities

<date>

«Name»

«Address_1»

«Address_2»

Email: «Email»

Dear «Salutation»

Exhibition – <municipal area name> Draft Local Provisions Schedule

The <insert planning authority name> gives notice of the public exhibition of the relevant exhibition documents in relation to the <insert municipal area name> draft Local Provisions Schedule (LPS). The Tasmanian Planning Commission (the Commission) has directed the planning authority to publicly exhibit The relevant exhibition documents in relation to the <insert municipal area name> draft LPS under section 35B of the *Land Use Planning and Approvals Act 1993* (the Act).

A copy of the exhibition notice is attached for your reference.

Yours sincerely

<name>

General Manager

Appendix C: Checklist for planners

The following information and documents are to be provided to the Commission after the exhibition period has closed and the planning authority has considered any representations to a draft LPS:

1. A copy of the planning authority decision about the representations reported under section 35F. (A formal decision under delegation or by resolution is required even where there are no representations received).
2. A copy of the planning authority minutes including reasons for the decision, or delegated decision if determined under officer delegation (confirming the officer is acting under delegation).
3. A copy of the planner's section 35F report on the representations including a response to an LPS criteria outstanding issues notice if relevant.
4. A copy of the unredacted and numbered representations, either as an appendix to the report or separately.
5. A copy of the names, postal addresses and email 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). Telephone numbers are not required.

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.