

CHANGES TO THE LAND USE PLANNING AND APPROVALS ACT 1993: OVERVIEW

Tasmanian Planning Scheme

The Tasmanian Planning Scheme will comprise:

■ *State Planning Provisions*

The SPP will set out standard definitions, exemptions, information requirements, zone names, objectives, use tables, use and development standards, Codes and overlays. The SPP may also impose restrictions on how an LPS is developed, including its form, structure, allowable and prohibited content.

■ *Local Provisions Schedule*

The LPS will determine which areas of land are subject to particular zones – in most instances, the zones applied will then be subject to the SPP obligations for that zone. LPS may also make Special Provisions (see Definitions), such as particular purpose zones, where the SPP provisions are overridden or modified. Such provisions may only be made if allowed for by the SPP and where the planning authority demonstrates that special provisions are justified because:

- a use or development is of significant social, economic or environmental benefit to the State, a region or a municipal area; or
- a particular area of land has unique environmental, economic, social or spatial qualities that require special management.

Unless the SPP allows the LPS to include provisions overriding or modifying the SPP, where a provision of an LPS is inconsistent with the SPP, the SPP will prevail (s.33)

■ *Special Local Provisions Schedule*

Special LPS may be introduced to urgently update local provisions to remove an inconsistency or to deliver a new policy at the direction of the Minister. Special LPS replace Special Planning Orders under the previous Act.

The role of State Policies

State Planning Provisions and Local Provisions Schedules must be consistent with existing State Policies. However, part of the reason for lack of statewide consistency to date has been the absence of a comprehensive suite of State Policies to guide the development of planning schemes. The government has indicated that a suite of policies will be developed after the introduction of the SPP – it is unlikely that these policies will be formal “State Policies” under the *State Policies and Projects Act 1993*, so difficult to assess what role they will play and what opportunities will exist for the public to comment on the policies.

The role of the Minister

Under the revised *Land Use Planning and Approvals Act 1993 (LUPAA)*, the Minister is responsible for developing, amending and reviewing the SPP. In practice, the development of the draft SPP has occurred through the Planning Reform Taskforce, a non-statutory advisory body. The Commission will conduct the assessment of the draft SPP (and any amendment), but the ultimate approval decision rests with the Minister. The Minister is therefore responsible for both drafting and approving the SPP.

The most significant consequence of this is that decisions relating to the SPP are more likely to be characterised as “legislative” and not be subject to judicial review.

The role of the Commission

The role of the Tasmanian Planning Commission has been in flux for a number of years since the introduction of interim planning schemes increased the role of the Minister. Under the revised LUPAA, the Commission will conduct assessments and make recommendations to the Minister regarding the State Planning Provisions, but the Minister will ultimately determine whether to approve the SPP (this is similar to the situation with interim planning schemes, although the Minister did not develop the content of the interim schemes).

However, some decision making power has been restored in relation to Local Provisions Schedules. The Commission may approve LPS (with the agreement of the Minister) and amendments to the LPS and Special LPS (without the agreement of the Minister).

The role of local government

Local planning authorities will be consulted in relation to the draft SPP, but have no active role in determining its final content (unlike Planning Schemes and Interim Planning Schemes, which were developed by planning authorities in the first instance).

Planning authorities are responsible for developing LPS, but this is to be done within any constraints imposed by the SPP regarding content, form and structure and any directions from the Minister. The Commission may also approve guidelines regarding implementation of the Tasmanian Planning Scheme (for example, guidance on what types of land should be included in particular zones) – while there is no explicit requirement to follow the guidelines, it is likely that LPS will not be approved if there are any significant departures from the guidelines.

The revised LUPAA also provides that, where a planning authority has failed to prepare a document, or undertake a review, within a set timeframe, the Commission can take over the planning authority's role and recover any costs of doing so from the planning authority (ss.35T and 44). This may act as a significant deterrent to Council seeking extra time to complete tasks.

Public participation

Draft SPP and LPS, and any amendments to those documents, are released for public comment for periods that are either equivalent to, or longer than, the periods under the previous Acts. Some restrictions are imposed on representations – for example, comments on an LPS cannot recommend changes to the SPP, and general commentary regarding any perceived disadvantages of a Statewide Planning Scheme model will not be considered.

The Commission may determine that amendments to SPP / LPS do not need to be advertised where they meet certain criteria for non-exhibition (see *Definitions*) **and** where the public interest will not be prejudiced by the decision not to advertise. Such amendments will generally be minor, technical amendments to remove inconsistencies, however there is a risk that the criteria will be applied more broadly. The Minister may also declare an amendment to an LPS is “urgent” and does not need to be advertised – the Minister must publish a notice explaining why this decision was made.

The revised LUPAA explicitly allows the Commission and a planning authority to consider representations received outside the public comment period. This is a discretionary power – it remains advisable to get representations in before the deadline, as there is no guarantee that late representations will be considered.¹

As currently, the Commission has discretion as to whether to hold hearings in relation to representations received on the SPP or amendment to the SPP. For LPS or amendments to LPS, the Commission **must** hold hearings unless all representations are in support of the amendment or representors don't wish to be heard.

¹ **Note:** this discretion applies only in relation to planning instruments. There is **no** discretion to accept late representations in relation to development applications.

Regional land use strategies

Regional land use strategies continue to apply and must be “kept under regular and periodic review”. Significantly, the revised LUPAA provides for a regional land use strategy to “incorporate or refer to any document prepared, by a planning authority in respect of a municipal area” (s.5A). Without any criteria or restrictions in relation to such documents, there is a risk that documents may be incorporated that have not been subject to rigorous public consultation.

Any draft LPS or amendment must be consistent with the relevant Regional Land Use Strategy.

Interim schemes

Until LPS have been declared for a particular municipality, the current interim scheme will continue to apply. Many of the existing interim scheme provisions / zoning will be carried across to new LPS, however significant changes may also be proposed.

Anyone with concerns will need to make a fresh representation in respect of the draft LPS, even if you’ve raised those concerns previously in respect of the interim scheme.

Other changes

Other minor changes effected by the revised LUPAA include:

- Any requests for further information are to be answered within 5 years, or the application to which the request relates will lapse. Under the previous Act, there was no end date for responding to information requests, so developers could “hold” their application indefinitely
- If Council boundaries change (for example, through amalgamations), the Commission is to declare which planning authority is to be responsible for administering the Tasmanian Planning Scheme as it applies to the affected land (s.45).
- A combined LPS amendment and permit application process exists, similar to the previous s.43A.
- Landowner consent is not required for development applications where a mining lease or production licence has been granted. Previously, this exemption applied only to mining leases but will now apply to areas where production licences allow for extraction of unconventional gas (ss.40T(7), 52(1A))
- The SPP and LPSs are to be reviewed regularly, and at least once every 5 years. No guidance is provided in relation to how the SPP is to be reviewed, against what criteria or whether public consultation will be involved. The review of the LPS is more structured and provides for public comment. Note, LUPAA requires the Projects of Regional Significance provisions to be reviewed “as soon as practicable after 1 January 2013” and this review is yet to be undertaken.

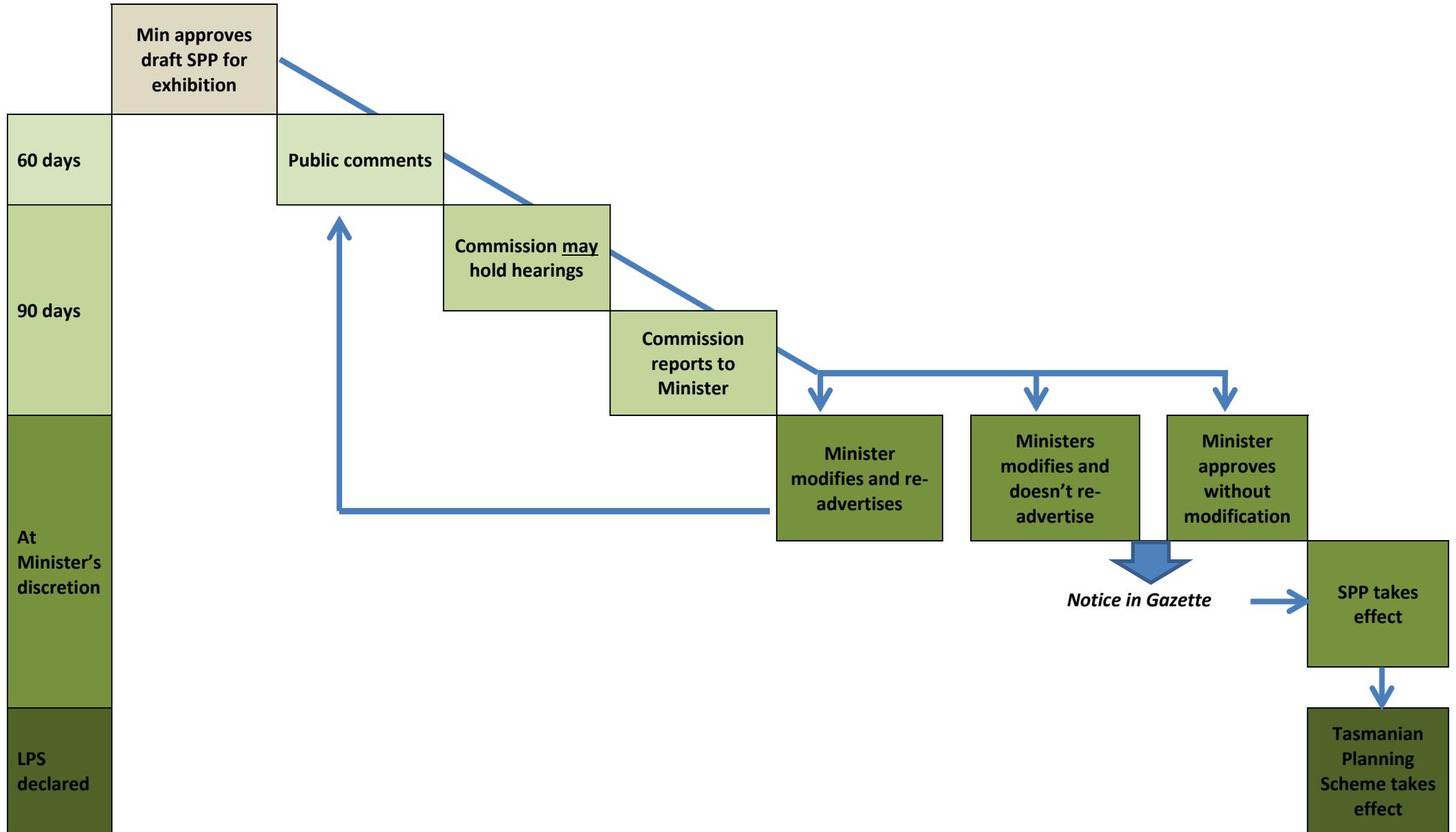
Future changes

A number of changes to the planning system have been mooted by the Liberal Government, but are yet to progress. These include:

- **Reduction in third party appeals** – this policy has not progressed, but remains a policy of the government. It is also likely that the SPP will increase the number of developments that are “permitted” and therefore are not subject to third party appeals.
- **Call-in powers** – the proposal to allow the Minister to “call in” significant projects for assessment under a site-specific assessment process has yet to progress. The Policy, which would introduce powers similar to those in NSW and Qld, has support from the Property Council.
- **Building regulations** – changes to the Building Regulations anticipated within the next 6 months are likely to move consideration of development standards such as setbacks, access, floor levels etc to the Building Permit, rather than the planning permit. This may further reduce opportunities for third party involvement where standards are relaxed. It is likely that these amendments will be released for public comment.

More details of the process for making and amending the SPP and LPSs are set out below.

Making the SPP - overview



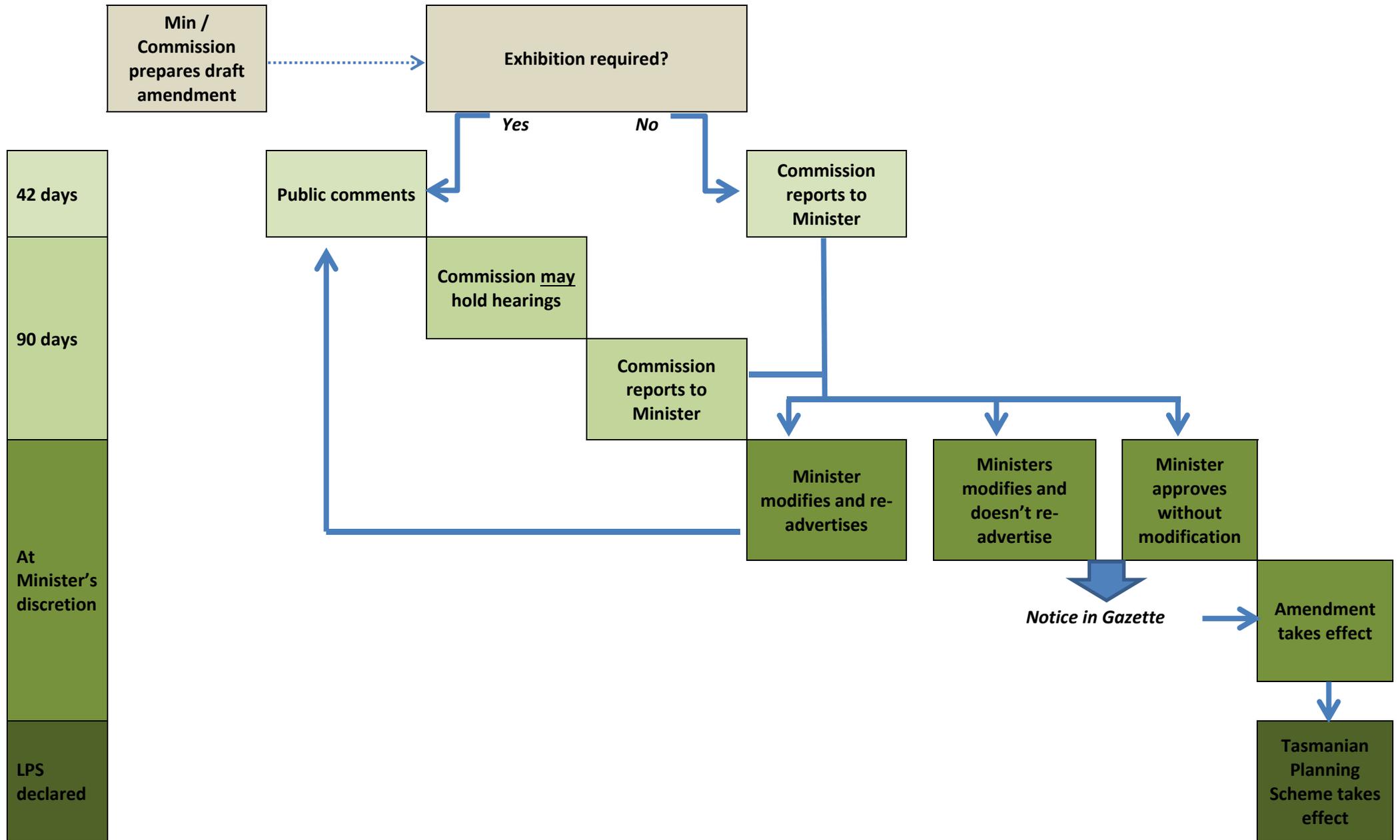
Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Making State Planning Provisions (SPP)					
Minister may prepare Terms of Reference (ToR) for the development of SPP (s.17)	- <i>[in practice, this is unlikely to happen as the draft SPP was already in preparation when legislation took effect]</i>	If prepared, ToR must be published and draft SPP must be consistent with the ToR. ToR must not facilitate a SPP that would not meet the SPP criteria (see Definitions)	Minister	-	Terms of Reference are referred to at several places in the Act, however it is not mandatory for the Minister to prepare ToR.
Minister to prepare draft SPP or direct Commission to prepare draft SPP. Must consult with: <ul style="list-style-type: none"> ■ All planning authorities; ■ Any State agencies the Minister considers necessary; and ■ If the Minister is preparing the draft SPP, Commission 	- <i>[in practice, draft SPP was released to councils, agencies and the Commission for consultation in late December, with comments due by 5 February 2016]</i>	Draft SPP may provide for any matters which a planning scheme can provide for (use and development standards, zones, existing uses, requirement to comply with Codes of Practices etc) and nothing which it cannot (marine farming in State waters, mineral exploration, forest practices in State forests or private timber reserves and fishing) Significantly, s.14 provides that the SPP may specify the structure of Local Provisions Schedules (LPS), any provisions that must be included in the LPS, whether or not a LPS can include provisions that amend or override SPP provisions, any maps, overlays or other provisions that must (or may) apply under the LPS (for example, the SPP may dictate when a Coastal Inundation overlay is to be applied in particular municipalities). The SPP may also contain a provision permitting a LPS to include particular purpose zones, specific area plans or site-specific qualifications. The draft SPP must meet the following criteria (s.15):	Minister	- <i>Some community groups have been consulted as part of the current drafting process.</i>	"Minister" is preparing the draft SPP through the Planning Reform Taskforce. SPP is required to be consistent with the three formal State Policies (Coastal, Water Quality Management and Protection of Agricultural Land). The SPP is not required to be consistent with (or to have regard to) other State government policies such as the Population Strategy, Regional Land Use Strategies, Transport strategies or draft Climate Action Plan.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
		<ul style="list-style-type: none"> ▪ only contains provisions that the SPPs may contain under s.14; and ▪ furthers the RMPS objectives; and ▪ is consistent with each State Policy; and ▪ has regard to the safety requirements set out in the standards prescribed under the <i>Gas Pipelines Act 2000</i>. <p>If the draft SPP is prepared by the Commission, it must satisfy any published Terms of Reference. The Minister can direct the Commission to amend the draft SPP if it does not meet the ToR.</p>			
Minister approves draft SPP for exhibition	-	May only approve if satisfied draft SPP meets the criteria in s.15 (see above).	Minister	-	The Minister may prepare, or direct the Commission to prepare, explanatory documents to support the draft SPP (s.16).
Commission to release draft SPP for public comment	60 days	<p>Draft SPP must be available for inspection at the Commission office, and for download.</p> <p>Representations which do not relate to the content and merits of the draft SPP will be excluded from a representation. It is not clear how broadly this will be interpreted, but is likely to exclude commentary regarding the merits of a Statewide planning system (s.23(3)).</p>	-	Any person or organisation can make a representation – in hard copy or by email – within the public comment period.	<p>Currently expected to be early – mid 2016.</p> <p>If explanatory documents have been prepared, Minister may approve those for publication. It is likely that explanatory docs will be released with the draft SPP.</p> <p>Govt not required to make draft SPP available for purchase (but may do so).</p>

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
<p>Commission to consider representations and provide report to Minister recommending the draft SPP be:</p> <ul style="list-style-type: none"> ■ made without change ■ modified to address issues raised ■ rejected. 	90 days from end of public comment period	<p>Commission must consider all representations made in the public comment period and may, at its discretion, consider late representations.</p> <p>Commission may hold hearings in relation to representations (including any late representations accepted).</p> <p>Commission must consider whether the draft SPP meets any Terms of Reference and the SPP criteria in s.15.</p> <p>Report must outline all representations considered, information gathered at any hearing/s held and recommended responses.</p> <p>If recommending that the SPP be modified, the Commission must recommend changes and whether those changes should be re-advertised.</p>	Commission	-	There are no set criteria for when changes will be significant enough to warrant re-advertising. This is also the case under previous versions of LUPAA.
Minister considers report	-	Minister may seek any further information s/he considers relevant, and may request more information from the Commission.	Minister	-	
<p>Minister decides whether to make SPP (with or without amendments).</p> <p>If amending, Minister decides whether it is “necessary” to re-exhibit the revised draft SPP.</p>	-	<p>No criteria to determine if re-exhibition is “necessary”. However, if the Minister does not re-exhibit, must publish notice in the Gazette explaining why re-exhibition was not considered necessary (s.28).</p> <p>If amendments are to be re-exhibited, Minister is to publish notice in the Gazette. The amendments will be assessed under the amendment provisions (discussed below), while the balance of the SPP will take effect immediately.</p>	Minister	-	The Minister is not bound to follow the recommendations of the Commission.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
SPP takes effect	As specified in the Gazette notice	-	Minister	-	The SPP won't apply to a particular municipality until a date specified in a further Gazette notice (s.30). The govt has indicated that this will not be until the relevant Local Provisions Schedule takes effect, but this is not explicit in the Act.

Amending the SPP - overview

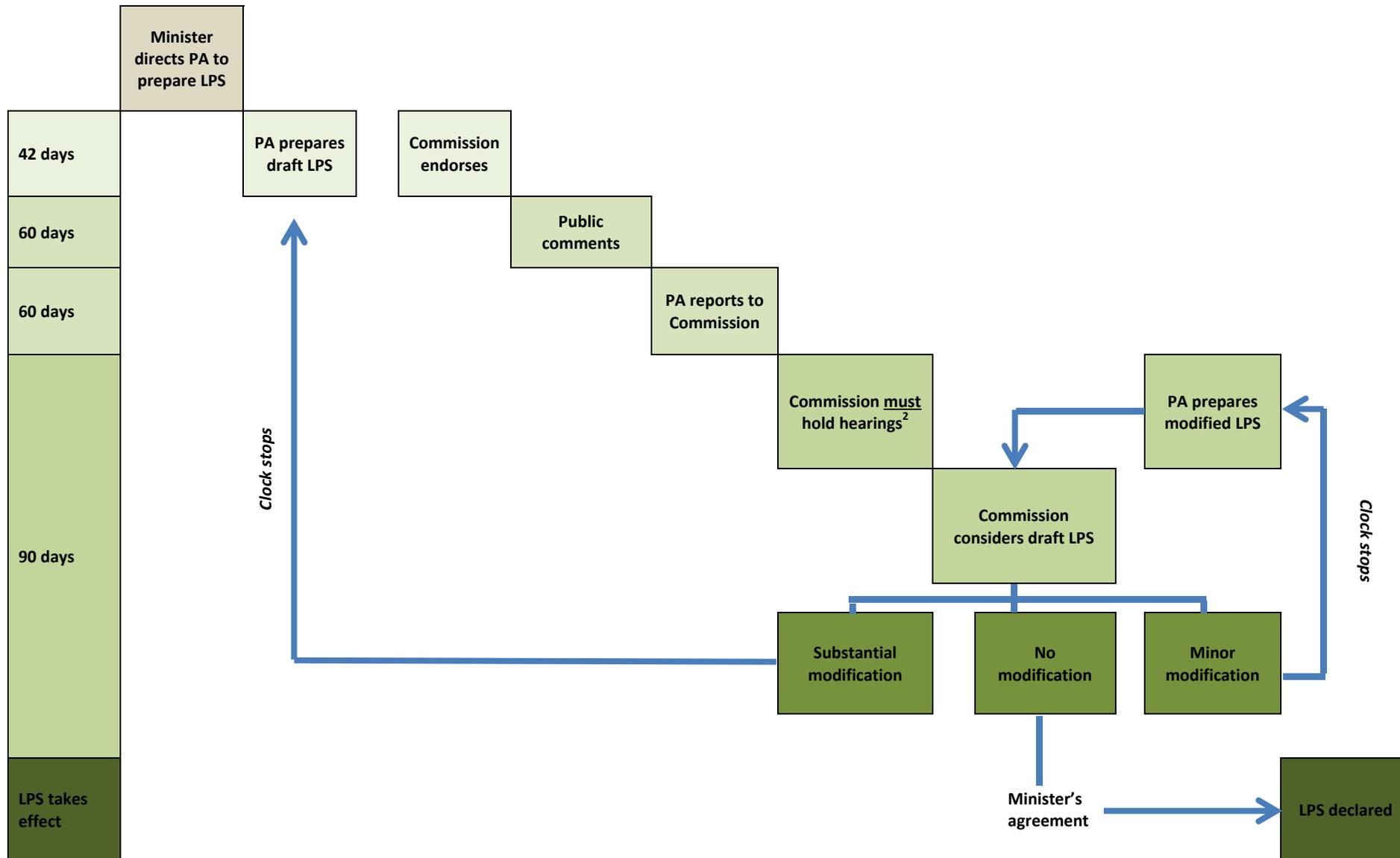


Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Amending State Planning Provision					
<p>Minister can draft amendment, after consulting with:</p> <ul style="list-style-type: none"> ■ All planning authorities; ■ Any State agencies the Minister considers necessary; and ■ Planning Commission. <p>May also direct Commission to prepare draft, in consultation with planning authorities and nominated State authorities.</p>	-	<p>Draft must satisfy SPP criteria in s.15.</p> <p>If Minister is not satisfied draft prepared by Commission meets criteria, can direct Commission to amend before declaring draft ready for public exhibition.</p>	Minister	-	<p>As with draft SPP, Minister may prepare Terms of Reference for the amendment. If so, amendments must be consistent with ToR.</p>
Decision about advertising (s.30H)	-	<p>Minister may, on recommendation of the Commission, declare that public exhibition of the draft amendment is not required if</p> <ul style="list-style-type: none"> ■ the amendment is “urgently required”; or ■ the amendment is for a non-exhibition purpose(SPP) (see Definitions – NB this is not a definition used in the Act); <p><u>and</u></p> <ul style="list-style-type: none"> ■ the public interest will not be prejudiced. <p>If a non-exhibition declaration is made, the Minister must publish a notice stating that the amendment will not be advertised and explaining why not.</p>	Minister	-	<p>Minister may only make non-exhibition declaration if Commission has recommended it.</p>

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Commission to report to Minister (if non-exhibition declaration made)	42 days of non-exhibition declaration	<p>Report is to set out recommendations to approve, amend or reject amendment.</p> <p>If Commission recommends specific modifications, the report must include a statement as to whether the modifications are urgent and whether the Minister could reasonably be satisfied that the public interest will not be prejudiced if the modified amendment to the SPP was not publicly exhibited.</p>	Commission	-	
Exhibition of draft amendment (if no non-exhibition declaration)	42 days	<p>Draft amendment must be available for inspection at Commission office, and for download.</p> <p>As for draft SPP, representations which do not relate to the content and merits of the draft amendment will be excluded from a representation (s.30L(3)).</p>	-	Any person or organisation can make a representation – in hard copy or by email – within the public comment period.	
Commission to report to Minister (s.30N)	90 days	<p>Commission must consider all representations made in the public comment period and may, at its discretion, consider late representations.</p> <p>Commission may hold hearings in relation to representations (including any late representations accepted).</p> <p>Commission must consider whether the draft amendment meets any Terms of Reference and the SPP criteria in s.15.</p> <p>Report must outline all representations considered, information gathered at any hearing/s held and recommended responses.</p>	Commission	-	

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
		If recommending that the draft amendment be modified, the Commission must recommend changes and whether those changes should be re-exhibited.			
Minister decides whether to make amendment (modified or unmodified).	-	Minister may inform herself / himself in any way s/he thinks fit (including asking Commission to provide more information (s.30O). The Minister may modify the amendment, or direct the Commission to prepare a modified amendment. If the amendments are not re-exhibited, the Minister must publish notice in local papers advising that the amendments have been made and explaining why re-exhibition was not required (s.30Q). If the amendments are to be re-exhibited, the amendments will be assessed under the amendment provisions discussed above.	Minister	-	The Minister is not bound to follow the recommendations of the Commission.
Amendment takes effect (s.30R)	As specified in the Gazette notice	-	Minister	-	The amendment won't apply to a particular municipality until a date specified in a further Gazette notice (s.30S).

Making an LPS - overview



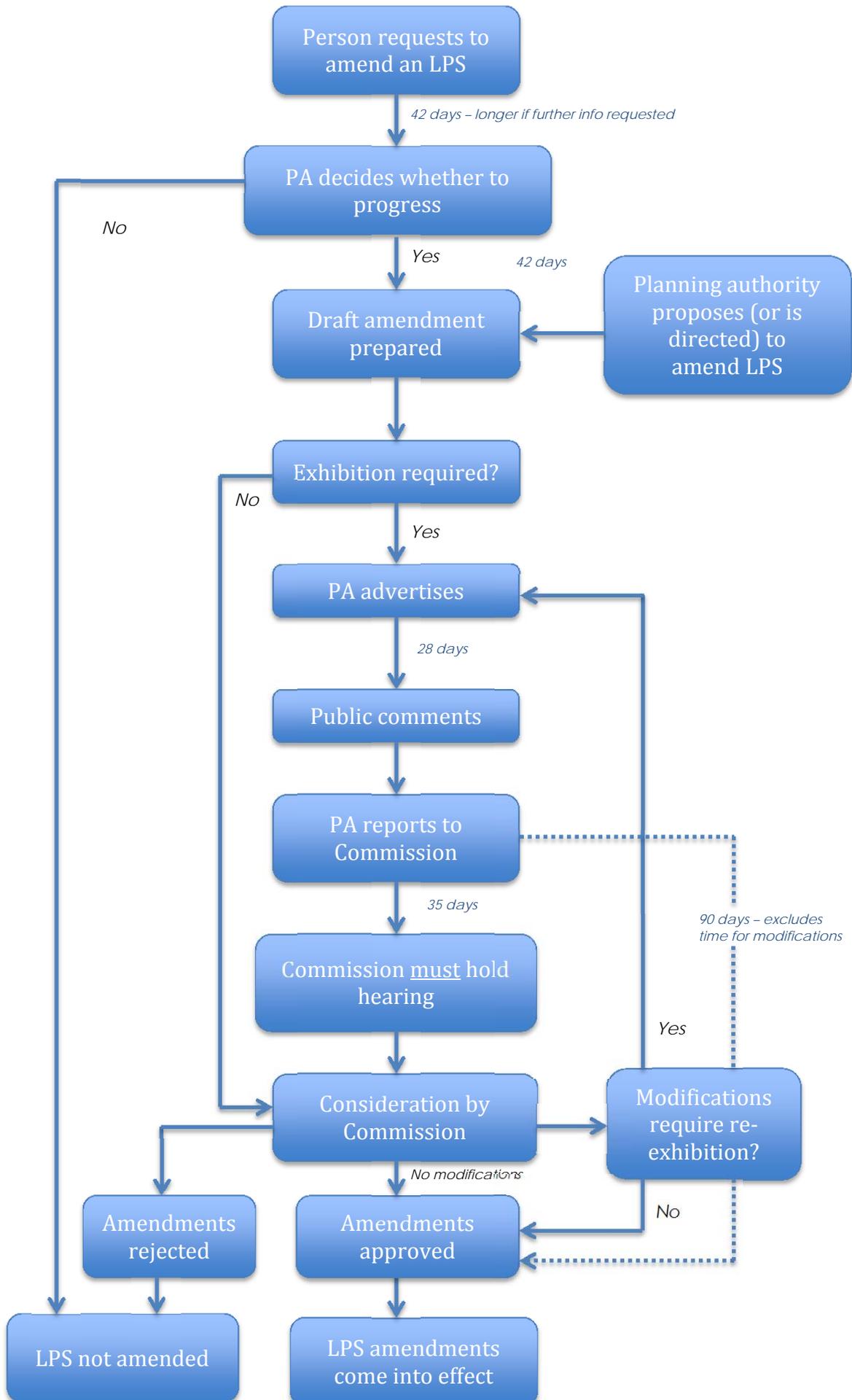
PA = Planning authority
² Subject to exemptions – see detailed table.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Making Local Provisions Schedules (LPS)					
Minister directs planning authority to prepare draft LPS (s.35(1))	-	The Commission may issue guidelines to assist planning authorities in the preparation of draft LPSs and draft amendments of LPSs (s.8A). Any guidelines are instructive only – there is no explicit requirement for planning authorities to follow the guidelines.	Minister	-	Planning authority may also prepare draft LPS on its own initiative
Planning authority prepares draft LPS	At least 42 days – date to be specified in direction from the Minister	Commission must be satisfied that the draft LPS meets the LPS criteria (see Definitions) – can direct planning authority to amend draft before advertising if it does not comply. Draft LPS may set out any Particular Purpose Zones, Special Area Plans or Site-Specific Qualifications (“ Special Provisions ” - see Definitions . NB: definition not used in the Act).	Commission	-	If planning authority fails to prepare draft LPS in time, Minister can direct Commission to prepare draft LPS (s.35A). Commission to give Council 14 days to comment on draft before presenting to Minister.
Minister endorses draft LPS for exhibition	-	Minister to consider advice from Commission and decide whether to endorse for exhibition. If endorsed, Commission to direct planning authority to commence exhibition. The direction must also specify any State agencies that the Commission considers will have an interest in the draft LPS.	Minister	-	No criteria referred to in this provision, however Commission cannot seek endorsement until satisfied draft meets LPS criteria.
Planning authority releases draft LPS for public comment	Within 14 days of direction from Commission	Planning authority is to circulate draft LPS to: <ul style="list-style-type: none"> ■ all other planning authorities in the region; ■ adjacent planning authorities (if not in the region); and ■ all State agencies listed in the direction from the Commission Planning authority must also publish notice that the draft LPS is available for public comment twice in local newspapers.	-	-	Unlike the draft SPP, no provisions relating to preparation of explanatory documents for draft LPS. Planning authority may seek to explain how Special Provisions address relevant criteria (see Definitions)

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Commission must hold hearings (s.35H)	As soon as practical Must give at least 14 days notice to representors	Unless the Commission is satisfied that: <ul style="list-style-type: none"> all representations received support the draft LPS (without amendment); or representors advise that they do not wish to be heard; or the representation only seeks minor, technical amendments (such as correcting references or map features), the Commission must hold hearings into each representation. The Commission may consolidate hearings for efficiency.	Commission	Any person who made a valid representation can request to be heard. Statements at hearings are constrained in the same way as representations – i.e limited to content of draft LPS, rather than proposed amendments to SPP.	The Commission may elect to consolidate hearings not only for representations on a single LPS, but on representations relating to different LPSs – this may occur if two or more LPSs raise similar issues (such as seeking to override coastal inundation requirements due to more detailed mapping indicating fewer controls are required in identified areas).
Commission may direct planning authority to modify draft LPS	At least 28 days	If the Commission considers that modifications are required for a draft LPS to satisfy LPS criteria, the Commission can direct a planning authority to make specific modifications or to prepare a substitute draft LPS. The Commission may also make the modifications itself, and notify the planning authority. Where modifications are substantial, or a new draft LPS is substituted, the revised draft is to be re-advertised.	Commission	- <i>Only if re-advertised</i>	The Commission can require a modification without Ministerial approval (unlike interim scheme provisions). Time taken to modify a draft LPS does not count towards the timeline for determining the draft LPS(see below). If directed to make specific modifications, while the modifications are being made a planning authority must not issue any development permit that would be contrary to the LPS as modified (s.35K(2)(d)).

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Approval of LPS	90 days after receiving planning authority report (excluding any time for modifications)	Commission must be satisfied that the LPS will satisfy the LPS criteria. Commission may only approve LPS with the agreement of the Minister (s.35L). The approval must also be signed off by the Chairperson of the Commission or a specifically authorised delegate.	Commission / Minister	-	If substitute LPS was required to be prepared, 90 days is counted from date on which planning authority report in relation to the substituted LPS was submitted.
Public notification that LPS has been made	As soon as practicable after approval	Commission to publish notice in Gazette and notify the planning authority. Planning authority is then to give "prescribed notice"	-	-	"Prescribed notice" is not defined in the Act – amended Regulations will likely set out requirements similar to current situation (i.e. publish in newspaper and notify anyone who made a representation).
LPS takes effect	As specified in the Gazette notice	Commission to publish notice in Gazette.	Commission	-	S.35M(4) explicitly provides that a failure to meet any timeframes set out in the Act will not invalidate an approval of a LPS.

Amendments to LPS



Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Amending LPS					
Any person may request an amendment to the LPS at any time	-	If the applicant is not the landowner, the request must be signed by the landowner/s and accompanied by their written consent to the making of the application.	-	-	Requests are to be in a form approved by Council or the Commission
Planning authority requests further information	28 days 14 days 7 days 28 days	Planning authority can make requests to assist its assessment of whether to progress amendment requested. If the applicant is unhappy with the request, can apply to the Commission for review (s.40A). In reviewing the request, the Commission may request that the planning authority provide all the information it had when the original information request was made. Information to be provided within 7 days. Commission will determine whether the original information request was appropriate or should be amended or revoked.	Planning authority Commission Commission	-	The statutory timeframe for deciding an amendment request stops while an information request is responded to. If no satisfactory response has been received within 5 years, the request application will lapse. It is an offence for a planning authority to fail to provide information requested by the Commission
Planning authority decides whether to progress amendment	42 days after request made or, if information request made, after information provided 28 days	Planning authority may only agree to progress amendment if amendment will be consistent with the LPS criteria (see Definitions) If refuse to progress, applicant has 14 days to apply to the Commission for a review. Commission may seek further information from the planning authority and decide (within 28 days) whether to uphold the refusal or direct the planning authority to reconsider (s.40B) If Commission directs planning authority to reconsider, planning authority must do so as soon as possible and notify the applicant of revised decision.	Planning authority	-	It is an offence for a planning authority to fail to provide information requested by the Commission. If request refused, applicant may only make a substantially similar request during next 2 years if have leave from the Commission. Commission will only give leave if satisfied that a material change in the SPP or Regional Land Use Strategy justifies reconsidering the

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
					amendment (s.38)
Planning authority prepares draft amendment following request from applicant OR direction from Minister OR on its own initiative	42 days	Minister may direct a planning authority to amend LPS if needed to ensure consistency with SPP and regional land use strategy, apply State Policies, satisfy Ministerial directions or for any other reason the Minister (after consulting Commission) thinks fit (s.40C). Notice of any direction to prepare an amendment is to be published in a local newspaper. If satisfied the draft LPS amendment satisfies the LPS criteria (see <i>Definitions</i>), the planning authority is to submit the draft to the Commission (s.40D), The Commission	Planning authority / Minister	-	
Commission to decide if public notice required	-	Commission may declare that public notice is not required if the draft amendment: <ul style="list-style-type: none"> ▪ is urgently required and the Minister has approved the issuing of the notice on this ground; or ▪ is for a "non-exhibition purpose (LPS)" (see <i>Definitions</i> – NB: this is not a definition used in the Act) <p><u>and</u></p> <p>the public interest will not be prejudiced.</p>	Commission	-	The decision to declare that public exhibition is not required may be subject to judicial review.
Public exhibition (if required)	28 days	Draft amendment must be available for inspection at the Council and Commission offices, and for download. Comments in a representation may, "without limiting generality [of right to comment]", express views on whether: <ul style="list-style-type: none"> ▪ a provision of the draft amendment is 	-	Any person or organisation can make a representation – in hard copy or by email – within the public	Councils not required to make hard copies of draft amendment available (for purchase or otherwise), but may choose to do so.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
		<p>inconsistent with a provision of the SPP; or</p> <ul style="list-style-type: none"> ■ the draft amendment should, or should not, apply a provision of the SPP to an area of land; or ■ the draft amendment should, or should not, contain a provision that is permitted LPS content (see <i>Definitions</i>). <p>However, a representation must not include recommendations regarding alterations to the SPP. Comments which do not relate to the content and merits of the draft amendment will be excluded from a representation (s.40J(5)).</p>		comment period.	
Report to Commission	35 days from end of public comment period	<p>Report is to detail all representations received in the public comment period (and may accept and outline late representations), proposed responses to the issues raised in those representations and recommendations regarding whether to approve or modify the draft amendment to comply with the LPS criteria.</p> <p>The planning authority cannot make recommendations in relation to changes to the SPP.</p>	Planning authority	-	Unlike report regarding draft LPS, planning authority prevented from raising issues with SPP as part of draft amendment to LPS.
Commission must hold hearings (s.40L)	<p>As soon as practical</p> <p>Must give at least 14 days notice to representors</p>	<p>Unless the Commission is satisfied that:</p> <ul style="list-style-type: none"> ■ all representations received support the draft amendment; or ■ representors advise that they do not wish to be heard; or ■ the representation only seeks minor, technical amendments (such as correcting references or map features), <p>the Commission must hold hearings into each representation. The Commission may consolidate hearings for efficiency.</p>	Commission	<p>Any representor can request to be heard.</p> <p>Statements at hearings limited to content of draft LPS, not comments on SPP or broader</p>	

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
				operation of LPS.	
Commission may direct planning authority to modify draft amendment	28 days	<p>If the Commission considers that modifications are required, the Commission can direct the planning authority to make specific modifications or to prepare a substitute draft amendment. The Commission may also make the modifications itself, and notify the planning authority.</p> <p>Where modifications are substantial, the revised draft amendment is to be re-advertised.</p>	Commission	- <i>Only if re-advertised</i>	<p>The Commission can require a modification without Ministerial approval (unlike current interim scheme provisions).</p> <p>Time taken to modify a draft amendment in response to a direction from the Commission does not count towards timeline for determining the draft amendment (see below).</p>
Approval of amendment	90 days after receiving planning authority report (excluding any time for modifications)	<p>Commission must be satisfied that the amendment to the LPS will satisfy the LPS criteria.</p> <p>The approval must also be signed off by the Chairperson of the Commission or a specifically authorised delegate.</p>	Commission	-	Unlike draft LPS, Commission may approve draft amendment without approval of Minister.
Amendment takes effect	Date specified in approval signed by Commission (or, if no date specified, 7 days after the approval is signed)	Commission to notify planning authority, who will give "prescribed notice" of the amendment.			"Prescribed notice" undefined – likely that Regulations will provide for notice in newspapers and to every representor.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
Making Special LPS					
Commission may prepare a Special Local Provisions Schedule (s.35Q)	-	<p>Commission may only approve a Special LPS if satisfied that:</p> <ul style="list-style-type: none"> ■ there are contradictions in, or inconsistencies between, the provisions of a single LPS; or ■ an LPS needs to be introduced in an area that does not currently have a LPS; <p><u>and</u></p> <ul style="list-style-type: none"> ■ following the normal process for amending an LPS would result in an unacceptable delay; <p><u>and</u></p> <ul style="list-style-type: none"> ■ it is in the public interest <p><u>and</u></p> <ul style="list-style-type: none"> ■ the Special LPS meets the LPS criteria (see <i>Definitions</i>) 	Commission	-	Planning authority may also prepare draft Special LPS on its own initiative and submit to Commission for consideration.
Special LPS takes effect	Date specified in Gazette notice	<p>Notice of the Special LPS is to be published in the Gazette and local newspapers.</p> <p>A copy of the Special LPS must also be tabled in both houses of parliament. Any member of parliament may put forward a motion to disallow the Special LPS within 10 sitting days.</p> <p>The Special LPS takes effect immediately on the date set out in the Gazette, but ceases to have effect if it is subsequently revoked by the Commission or disallowed by either house of parliament.</p>	Parliament	Only through lobbying members of parliament to disallow	Special LPS effectively replace Special Planning Orders under the previous Act.

Action	Time frame	Criteria	Decision maker/s	Public participation	Comments
<ul style="list-style-type: none"> ■ Report to Minister 	<p>As soon as possible after receiving satisfactory report from planning authority</p>	<p>planning authority to reconsider and submit a revised report within a further 60 days.</p> <p>The Commission is to provide the Minister with the planning authority's report, along with the Commission's recommendations regarding the review.</p>	<p>Minister</p>		<p>what action to take based on the review – may direct the planning authority to commence an amendment of the LPS.</p>

DEFINITIONS

LPS content (s.32(2))

An LPS –

- **must** specify the municipal area to which its provisions apply (may only apply to one municipal area); and
- **must** contain any provision that the SPPs require to be included in an LPS; and
- **must** contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land, if required to do so by the SPPs, and **may** contain any other of these documents that applies the SPP to the land; and
- **may** contain any provision in relation to the municipal area that may be included in a planning scheme; and
- **must not** contain a provision that is inconsistent with the requirements of a planning scheme (e.g. cannot regulate marine farming in State waters); and
- **may** designate land as being reserved for public purposes; and
- **may, if permitted to do so by the SPP**, provide for localised application of the SPP; and
- **may, if permitted to do so by the SPP**, override a provision of the SPP; and
- **may, if permitted to do so by the SPP**, modify, in relation to a part of the municipal area, the application of a provision of the SPPs; and
- **may** include any other provision that is permitted by the SPP and not inconsistent with a provision of the SPP; and
- **must not** contain a provision that the SPPs specify must not be contained in an LPS; and
- **must** be in accordance with the form and structure of an LPS indicated in the SPP; and
- **must** only contain particular purpose zones, specific area plans and site-specific qualifications if the *special provision criteria* are met

LPS criteria (s.34)

- contains all the provisions that an SPP specifies must be contained in an LPS; and
- satisfies the LPS content requirements (see above); and
- furthers the RMPS objectives; and
- is consistent with each State policy; and
- is consistent with the relevant regional land use strategy; and
- is consistent with any relevant strategic plan prepared under section 66 of the *Local Government Act 1993*; and
- as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates; and
- has regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.

Non-exhibition purpose (LPS) - NB: this is not a term used in the Act

Amendments that are urgently required (as approved by the Minister) or are for the following purposes may not require public exhibition (provided the public interest will not be prejudiced):

- correcting an error in the LPS;
- removing an anomaly in the LPS;
- clarifying or simplifying the LPS;
- removing an inconsistency in the LPS;
- removing an inconsistency between the LPS and this Act or any other Act;

- removing an inconsistency between the LPS and the SPPs;
- making a change to a procedure set out in the LPS;
- bringing the LPS into conformity with a State Policy;
- changing the structure of the provisions of the LPS, or the form of a provision of an LPS, so that the LPS conforms with the structure to which an LPS is required by the SPPs to conform or the form that a provision of an LPS is to take;
- a prescribed purpose (NB: to date, no other purposes have been prescribed).

Non-exhibition purpose (SPP) - NB: *this is not a term used in the Act*

Amendments for the following purposes may not require public exhibition (provided the public interest will not be affected):

- correcting an error in the SPPs;
- removing an anomaly in the SPPs;
- clarifying or simplifying the SPPs;
- removing an inconsistency in the SPPs;
- removing an inconsistency between the SPPs and this Act or any other Act;
- making a change to a procedure set out in the SPPs;
- bringing the SPPs into conformity with a State Policy;
- changing provisions of the SPPs that indicate or specify the structure to which an LPS is to conform or the form that a provision of an LPS is to take;
- a prescribed purpose (NB: to date, no other purposes have been prescribed).

Particular purpose zone

A group of provisions consisting of –

- (i) a zone that is particular to an area of land; and
- (ii) the provisions that are to apply in relation to that zone

For example, a medical precinct or UTAS site may be within a Particular Purpose Zone regulating the type of uses that are to be encouraged in the zone.

Site-specific qualification

A provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPP. For example, a site-specific qualification may apply to the IMAS building in Hobart or to Bellerive Oval.

Special provisions (s.32(3)) - NB: *this is not a term used in the Act*

- Particular purpose zones
- Specific area plans
- Site-specific qualifications

Special provision criteria (s.32(4)) - NB: *this is not a term used in the Act*

An LPS may only include a Special provision in relation to an area of land if –

- 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
- 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.

Specific area plan

A plan consisting of –

- (i) a map or overlay that delineates a particular area of land; and
- (ii) the provisions that are to apply to that land in addition to, in modification of, or in substitution for, a provision, or provisions, of the SPP.

For example, the Macquarie Point site at Sullivans Cove, the Georgetown LINC complex or the Invermay precinct in Launceston may be subject to a specific area plan.

SPP content (s.14)

An SPP -

- **may** contain any provision that may be included in a planning scheme;
- **must not** contain a provision that is inconsistent with the requirements of a planning scheme (e.g. cannot regulate marine farming in State waters);
- **may** indicate or specify the structure and form that an LPS is to take;
- **may** permit an LPS to provide for the detail of the SPP in respect of a particular place or matter;
- **may** permit a provision of an LPS to override a provision of the SPPs;
- **may** permit the modification, in relation to a part of a municipal area, of the application of a provision of the SPPs;
- **may** require or permit an LPS to contain a map, an overlay, a list, or another provision, that provides for the spatial application of the SPPs to land;
- **may** require an LPS to contain a provision of a kind specified or referred to in the SPPs;
- **may** contain a provision permitting an LPS to include Special Provisions (see above).

SPP criteria (s.15)

The SPP (or an amendment to the SPP) must –

- must only contain allowable SPP content (see above)
- must further the RMPS objectives; and
- must be consistent with each State Policy; and
- must have regard to the safety requirements set out in the standards prescribed under the *Gas Pipelines Act 2000*.