

AMENDMENT OF REGIONAL LAND USE STRATEGIES FOR THE FINALISATION OF DRAFT LOCAL PROVISIONS SCHEDULES

Purpose

This advice is issued by the Planning Policy Unit (PPU), Department of Justice as endorsed by the Minister for Planning and Local Government to provide guidance to planning authorities and the three regional council groups in relation to the obligations, opportunities and constraints for amendments to regional land use strategies (RLUSs) in context of the preparation and finalisation of draft Local Provisions Schedules (LPSs) as part of the introduction of the Tasmanian Planning Scheme.

Background

The Government recognises the important role of the current three RLUSs in guiding strategic planning and the spatial application of zones across the State.

The RLUSs were variously declared in 2011 for the implementation of interim planning schemes under the planning reforms of the previous government. Subsequent amendments have been made to the RLUSs since their original declaration to provide various clarifications, improvements and acknowledge more recent local strategic planning.

The current process of preparing draft LPSs to give effect to the Tasmanian Planning Scheme is a priority for the Government and the efficient conversion of current interim planning schemes to the LPSs should not be unnecessarily complicated by the introduction of strategic changes that are not related to the facilitation of that process.

Notwithstanding this, the Government is aware that a number of planning authorities have a backlog of local strategic planning that was not implemented through the interim planning scheme program and represents important strategic planning for their municipal area. Where this local strategic planning has been completed, fully documented, endorsed by the relevant planning authority, and is clearly consistent with the existing RLUS, the LPS may be prepared in accordance with that. If an amendment to a RLUS is required, there needs to be agreement by the regional council group, and relevant State Agencies, before the Government will consider amendments to the relevant RLUS.

The process for consideration of amendments to RLUSs is outlined further below.

While limited adjustments to the RLUSs are possible as part of the implementation of the Tasmanian Planning Scheme, the Minister has indicated that a proper review of RLUSs should occur after the LPSs have been finalised and the Tasmanian Planning Policies (TPPs) are in place to inform those strategies.

Legislative Context

In brief, the *Land Use Planning and Approvals Act 1993* (the Act) requires that a LPS must be consistent with the relevant RLUS.

Recent amendments to the Act established a process for reviewing RLUSs for the implementation of the Tasmanian Planning Scheme.

Section 5A(3) and (4) of the Act now requires the Minister to consult with the Tasmanian Planning Commission (the Commission), planning authorities and relevant State Service Agencies and State authorities prior to declaring a RLUS. This includes any amendments to a RLUS.

Section 5A(5) of the Act also specifically provides for the incorporation or reference to local strategic documents for the purposes of reflecting the application of the RLUS in that municipal area.

It is also the responsibility of the Minister under section 5A(6) of the Act to keep all RLUSs under regular and periodic review.

RLUSs and consistency with the State Planning Provisions

The State Planning Provisions (SPPs) were made on 22 February 2017 and came into effect on 2 March 2017. Planning authorities are now required to prepare their draft LPSs to spatially apply the zones and codes and include any Particular Purpose Zones, Specific Area Plans and Site Specific Qualifications.

The Act requires draft LPSs to be consistent with the relevant RLUS. However, it is acknowledged that some amendments will be required to the RLUSs to align with the made SPPs, such as:

- addressing any inconsistencies with the provisions of the SPPs; and
- updating references to zones and codes utilised in the SPPs.

Such amendments to RLUSs may encompass updating or removing advice about:

- regional model provisions that formed the basis for interim planning schemes;
- the application of a specific zone in *Planning Directive No. 1 – the Format and Structure of Planning Schemes* (PDI) or a regional variation to the generic zone through different densities or other controls; and
- specific codes that aligned to the regional model provisions, noting that although the SPPs may cover the same issue the name of the relevant code may have changed and the references need to be updated where an equivalency is apparent.

The PPU will assist the regions in reviewing the RLUSs and identifying any necessary amendments to ensure they are consistent with the SPPs through initially preparing a schedule of potential changes for consultation with the regional council groups. This will include a review of the policy outcomes in each RLUS to remove inconsistent terminology and references to zones, codes or other provisions which have changed from the interim planning schemes to the SPPs and analysis of those policy directions or actions that are in conflict with the imbedded policy contained within the SPPs.

Delivering Strategic Changes to RLUSs

Amendments may also be necessary to acknowledge recently adopted local strategic planning that reflect the RLUS within a municipal area, or to make any other minor strategic changes, which are relevant to LPS preparation.

Recent amendments to the Act provide for the incorporation of, or reference to, local strategic documents in the RLUS, specifically those that deliver the outcomes or strategic directions of the RLUS for the relevant municipal area or sub-region. This provides an important opportunity for adopted local strategies or plans to be given status through the RLUS.

It is important that any strategic changes that are considered to the RLUSs are kept to a minimum at this stage in the planning reform process. However, it is also important that the planning reforms do not unreasonably delay the delivery of regionally significant development, infrastructure projects, or opportunities for sustainable growth.

The strategic planning will need to be at an advanced stage and be accepted and agreed amongst councils within the region, to allow an 'adjustment' of the RLUS to be considered to incorporate the strategic changes. This will facilitate the efficient and timely process of preparing and assessing draft LPSs.

Any necessary amendments to a RLUS will need to be in place prior to the Commission, with the approval of the Minister, directing a planning authority to undertake public exhibition of their draft LPS in accordance with the requirements of the Act.

A comprehensive review of the RLUSs will form part of the future process after the LPSs come into effect and the making of the TPPs. The TPPs will provide a comprehensive suite of policy objectives and strategies for how state interests should be considered in land use planning. The enabling legislation for the TPPs is the *Land Use Planning and Approvals Amendment (Tasmanian Planning Policies) Bill 2017* which is currently subject to consultation prior to finalisation and tabling in Parliament within the next few months.

Importantly, the first LPSs are not required to be consistent with any TPPs that might be approved.

Process for Consideration of RLUS Amendments

In summary, amendments to RLUSs at this point in the planning reform process are to focus on:

- a review of RLUSs that addresses any inconsistencies with the provisions of the SPPs and updates references to zones and codes utilised in the SPPs; and
- minor strategic changes or more significant strategic changes if progressed to an advanced stage and has been accepted and agreed amongst councils within that region.

On the basis that any strategic changes put forward have already been subject to the consideration of the relevant planning authority and the region, there is unlikely to be a need to seek public input into these through public exhibition. However, if the extent of change is such that public consultation is warranted, then it is considered the amendment of the RLUS is not appropriate at this time as it is the Government's priority to expedite draft LPS preparation by planning authorities.

The Minister is responsible for approving amendments to the RLUSs. The regions will be required to prepare any amendments to the RLUSs for submission to the Minister.

The PPU will coordinate the review process with the three regions, which will encompass consultation with the Commission, planning authorities and any relevant State Service Agencies, such as the Department of State Growth, and State authorities and infrastructure providers, such as TasWater and TasNetworks.

Amendments will be approved and declared as a revised RLUS, in accordance with the requirements of the Act.

The process for 'adjustment' of the RLUSs will broadly follow these steps:

1. Minister will write to the three regional council groups to establish the governance model and detailed process for managing the RLUS amendments.
2. PPU undertake review of RLUSs to address any inconsistencies with the SPPs and consult with regional council groups on potential amendments.
3. Regional council groups prepare proposed amendments, including any strategic changes, to the RLUSs and submit to Minister for consideration.
4. PPU coordinate consultation on proposed amendments to the RLUSs with relevant stakeholders as prescribed in the Act, including the Commission, planning authorities, State Service Agencies and other State authorities.
5. Revised RLUSs declared by the Minister.

Timing of amendments to the RLUS

Individual work programs for the preparation of the draft LPSs in each region are currently being prepared which include the review and submission of amendments to the RLUSs.

It is critical that the draft LPS aligns with the relevant RLUS at the point it is submitted to the Commission under section 35 of the Act, because for the draft LPS to be approved for exhibition it requires the Commission to provide advice to the Minister that it complies with the LPS requirements set out in section 34 of the Act.

In practice, this requires the preparation of the draft LPS to be supported by the RLUS. Where the draft LPS is being prepared in tandem with proposed amendments to the RLUS, the planning authority should have regard to this Advisory Statement to ensure the required amendments to the RLUS are likely to be approved.

Where can I get more information?

General information about the Tasmanian Planning Scheme and the preparation of draft LPSs can be found on the Department of Justice's [Tasmanian planning reform website](#).

General enquiries about amendments to RLUSs or the preparation of the Tasmanian Planning Scheme should be directed to:

Planning Policy Unit, Department of Justice
GPO Box 825 HOBART TAS 7001
Ph (03) 6166 1429
email planning.unit@justice.tas.gov.au

Enquiries on the public exhibition and assessment process of draft Local Provisions Schedules should be directed to:

The Tasmanian Planning Commission
GPO Box 1691 HOBART TAS 7001
Ph (03) 6165 6828
email tpc@planning.tas.gov.au

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