

HOUSING LAND SUPPLY ACT 2018: ROLES & RESPONSIBILITIES

Overview

The *Housing Land Supply Act 2018* (the Act) provides a more efficient and appropriate process for rezoning land owned by Housing Tasmania and surplus Crown land (Government land) that has been assessed as being suitable for residential use for affordable housing. It also enables the residential planning rules to be modified to optimise the use of Government land used for that purpose.

This fact sheet provides a high-level summary of the roles and responsibilities of the key decision-makers and other stakeholders in the making or revocation of an order (a Housing Land Supply Order).

Key decision-makers are the:

- the Minister for Planning (the Minister); and
- the Parliament of Tasmania (that includes the House of Assembly and the Legislative Council).

Other stakeholders that have a role in the rezoning of Government land or the nomination of specific planning controls for residential use include State agencies that own or administer Government land, the

Tasmanian Planning Commission (the Commission) and prescribed ‘interested persons’.

Role of the Minister

The Minister’s primary role is to determine whether an area of Government land that has been identified as suitable for residential use for affordable housing should be rezoned. The Minister may also nominate specific planning controls for residential use and development to areas of Government land that are already zoned for residential purposes and other land that may be subject to rezoning in accordance with the provisions of this Act (see Fact Sheet 2).

Making a Housing Land Supply Order

Subject to meeting strict eligibility and suitability criteria, the Act enables the Minister to make a Housing Land Supply Order declaring an area of Government land (i.e. Crown land or land held by the Director of Housing under the *Homes Act* 1935) to be ‘housing supply land’.

The Minister may only make a Housing Land Supply Order if he or she has ensured that:

- the land is owned by the Government;

- the owner’s or administrator’s landowner consent has been obtained;
- there is a need for land to be made available for the purposes of the *Homes Act 1935* (the Homes Act); and
- the land is in close proximity to public and commercial services, public transport and places that may provide opportunities for employment.

The Minister can only make a Housing Land Supply Order to rezone an area of Government land if he or she is satisfied that:

- assigning the intended zone to the area of land would be consistent with the State Policies and the Regional Land Use Strategy that applies to the land;
- application of the relevant zone would not be significantly restricted by any codes that apply to the land under the relevant planning scheme;
- assigning the intended zone would further the objectives of the *Land Use Planning and Approvals Act 1993* (LUPAA);
- having regard to any Guidelines under section 8A of the LUPAA, assigning the intended zone to the area of land would be consistent with the zone purpose contained in the State Planning Provisions for the intended zone; and

- assigning the intended zone would not be likely to create any significant land use conflict.

The Minister must also consider the environmental, economic and social effects and the effects on Aboriginal and cultural heritage of assigning the intended zone to the area of land.

The Minister may also only make a Housing Land Supply Order if he or she has invited the prescribed ‘interested persons’ (see further below) to comment on a proposed rezoning.

After considering any submissions received from ‘interested persons’, the Minister can alter a proposed order providing that the alteration does not result in a significant change to either the character or effect of the original proposed order that was notified to the ‘interested persons’.

Preparing an assessment report

Once the Minister has assessed the request and considered any submissions received from the ‘interested persons’, he or she must prepare a report setting out:

- the reasons why the Minister wants to make the proposed order;
- the reasons why the Minister is satisfied that the proposed order may be made;
- a copy of each submission received from the ‘interested persons’;
- the Minister’s response to the issues raised in submissions; and

- if the proposed order has been altered by the Minister following consideration of submissions received from ‘interested persons’, a statement of reasons why the order was altered.

Seeking approval of Parliament

After consulting with ‘interested persons’, the Minister must consider any submissions before tabling the proposed Housing Land Supply Order in both Houses of Parliament, together with his or her report (see Fact Sheet 2).

Notification of the effective date of an amendment

Once the five-day disallowance period has expired for a proposed Housing Land Supply Order without a motion for a disallowance by either House of Parliament, the Minister must notify the making of the order and direct the Tasmanian Planning Commission (the Commission) to amend the relevant planning scheme within 14 days of receiving a notice from the Minister.

Once the relevant planning scheme has been amended, the Minister is then responsible for notifying the making of the amendment. The Minister must notify the day on which the amendment takes effect in the *Tasmanian Government Gazette* and in a newspaper that is published and circulates in Tasmania.

The Minister must also notify the ‘interested persons’ about the making of the amendment.

Revoking a Housing Land Supply Order

The Minister can also revoke a Housing Land Supply Order (that may include a rezoning or an order applying specific planning controls to an area of Government land) in prescribed circumstances. These are where the area of Government land is no longer required to be made available for the purposes of the Homes Act, or where the land has been developed for residential use after a Housing Land Supply Order was made.

Once the Minister has revoked a Housing Land Supply Order, he or she must notify each House of Parliament that the Government land has ceased to be ‘housing supply land’, and provide a statement of reasons for revoking the order and the grounds on which the order has been revoked.

The Minister must also publish a notice in the *Tasmanian Government Gazette* and in a newspaper that is published and circulates in Tasmania notifying that the area of land is no longer ‘housing supply land’ and the date on which this occurred.

Transferring undeveloped land back to the Crown

If the former Crown land has not been developed for the purposes of residential housing within 10 years of becoming ‘housing supply land’ and being vested in the Director of Housing, the Minister may transfer the land back to the Crown.

If an area of ‘housing supply land’ is transferred back to the Crown, the Minister

must publish a notice in the *Tasmanian Government Gazette* specifying that the transfer has occurred and the day on which the transfer takes effect.

Role of the Parliament

The role of the Parliament is to provide the over-riding check on whether the powers of the Minister have been appropriately exercised in the rezoning approval process.

After the Minister has tabled a proposed Housing Land Supply Order in both Houses of Parliament, together with the reasons why the Minister is satisfied that the proposed order may be made, either House of Parliament may disallow the order within five sitting days of it being tabled.

Role of State agencies who own or administer Government land

State agencies who own or administer Crown land (and their relevant business units) and the Director of Housing as the owner and manager of land under the Homes Act (within the Department of Communities Tasmania) have differing roles under the Act.

The Minister for Planning is required to obtain the consent of the Minister responsible for administering Crown land under the *Crown Lands Act 1976*, and the Secretary of the department responsible for controlling or administering the relevant land before a Housing Land Supply Order can be made.

The Minister is also required to obtain the consent of the Director of Housing where

the land is already managed under the Homes Act.

Once a Housing Land Supply Order has been made, any Crown land that is declared as 'housing supply land' vests in the Director of Housing for the purposes of the Homes Act.

This means that the Director of Housing is to take all reasonable steps to ensure that 'housing supply land' is used to deliver housing support programs, including affordable housing solutions, in accordance with the Homes Act.

Role of 'interested persons'

Before a proposed Housing Land Supply Order is made, the Minister is required to give notice to prescribed 'interested persons' and invite them to make a submission on relevant matters in respect to the proposed order.

The role of 'interested persons', including the local council as the relevant planning authority, is to provide comment and advice in relation to any rezoning of land or the alteration of a planning provision to ensure its interests are fully taken into account by the Minister.

In relation to the identified Government land, the 'interested persons' are:

- the planning authority for the area of land and any other planning authority that the Minister considers may be affected by the proposal;

- the State agency that the Minister considers has an interest in the proposal;
 - a statutory authority that the Minister considers likely to be required to provide water, sewerage, telecommunications, electricity or gas to the area of land or which may have its services impacted by the proposal;
 - a landowner or occupier of adjoining land or land that the Minister considers likely to be affected by the proposal; and
 - the Tasmanian Fire Service, the Tasmanian Heritage Council and the Aboriginal Heritage Council.
- amending an LPS to include a site-specific qualification or a SAP containing the modified planning provisions that apply to the identified area of land; or
 - amending an applicable planning scheme or LPS to alter or remove any zoning, specified planning provisions, a site-specific qualification or a SAP that applies to the identified area of land.

The Commission is also responsible for notifying the Minister that it has amended a planning scheme that applies to an area of Government land.

Where do I find the Act?

A copy of the Act and accompanying Fact Sheets are available at the Tasmanian Planning Reform website at: www.planningreform.tas.gov.au or at www.justice.tas.gov.au.

A copy of the Act is also available on the Tasmanian Legislation online website at: <https://www.legislation.tas.gov.au/>.

Enquiries

Any enquiries can be directed to the Planning Policy Unit within the Department of Justice at Planning.Unit@justice.tas.gov.au or by telephoning (03) 6166 1429.

Role of the Tasmanian Planning Commission

The role of the Commission is to comply with the directions issued by the Minister once the Parliamentary disallowance period has finished. The Ministerial directions are limited to any of the following:

- amending the zoning map in a relevant planning scheme (i.e. an interim planning scheme or a Local Provisions Schedule (LPS) that forms part of the Tasmanian Planning Scheme);
- including a specific area plan (SAP) in an applicable planning scheme (i.e. an interim planning scheme), containing the replaced or modified planning provisions that apply to the identified area of land;

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