

# HOUSING LAND SUPPLY ACT 2018: AN OVERVIEW

## Overview

In response to the 2018 Housing Summit hosted by the then Premier, the Tasmanian Government announced a number of medium and longer-term solutions to address housing supply issues.

One of medium-term measures endorsed by attendees of the Housing Summit was for the Government to introduce legislation to speed up the rezoning of Government land suitable for residential use for affordable housing.

The *Housing Land Supply Act 2018* (the HLS Act) was prepared in response to the Government action endorsed at the Housing Summit and introduced in July 2018.

The HLS Act provides a quicker process for rezoning eligible Government land for residential purposes and enables planning controls to be applied to better meet the specific needs of the site.

Amendments were made to HLS Act in November 2021 to broaden the scope of eligible government land and improve the consultation and assessment processes.

## What does the Housing Land Supply Act do?

The HLS Act provides a short-term response to the current high demand for housing in Tasmania. It overrides the normal assessment process under the *Land Use Planning and Approvals Act 1993* (the LUPA Act) by providing a quicker process for:

- rezoning eligible Government land that has been assessed as suitable for residential use and development; and
- changing the residential planning controls to optimise the use of Government land for residential purposes.

The HLS Act enables the declaration of a Housing Land Supply Order (an Order) to rezone, or modify the planning scheme requirements for, eligible Government land for housing, particularly social and affordable housing.

A proposed Order is subject to strict assessment criteria, public consultation and parliamentary scrutiny.

The declaration of an Order causes the relevant planning scheme to be amended, and transfers the land to the Director of Housing to deliver housing under the *Homes Act 1935*.

### **Homes Act 1935**

This is the legal framework under which the Director of Housing provides housing support to those in need.

The Director must take all reasonable steps to provide housing to people who are most in need that is “safe, secure, appropriate and affordable” and to provide housing assistance and enable the provision of housing support services to those in need.

The Director can also sell or transfer land to a housing support provider, or sell land to ensure there is the right mix of affordable and privately owned housing. Any funds made available through the sale of land can then be used for the purposes of delivering social and affordable housing in other locations.

### **Roles and responsibilities**

The Director of Housing makes requests to the Minister for Local Government and Planning for an Order.

The Minister for Local Government and Planning is responsible for preparing, consulting on, and declaring an Order under the HLS Act.

The Parliament of Tasmania (the House of Assembly and the Legislative Council) has a role in considering a proposed Order and may disallow it.

The Tasmanian Planning Commission is responsible for making amendments to the relevant planning scheme to implement an Order.

The Director of Housing will progress with the development of a site subject to an Order under the *Homes Act 1935*.

The local council (acting as the planning authority) will assess any development applications relating to the subdivision of land and the construction of houses after the declaration of an Order and rezoning of the land.

### **Eligible Government land**

Only certain Government land can be considered for an Order under the HLS Act. This is limited to land that:

- is owned, vested in, or held by the Director of Housing under the *Homes Act 1935*;
- was Crown land before the HLS Act commenced in 2018; or
- was owned by Tasmania Development and Resources before the HLS Act commenced in 2018.

It excludes any land that is:

- reserved under the *Nature Conservation Act 2002*;
- managed under the *National Parks and Reserves Management Act 2002*;
- managed under the *Wellington Park Act 1993*;
- permanent timber production zone land under the *Forest Management Act 2013*; or
- future potential production forest land under the *Forestry (Rebuilding the Forest Industry) Act 2014*.

## Assessment criteria

Eligible Government land must meet strict suitability criteria. The HLS Act sets a range of assessment criteria for determining the suitability of the land and the intended zoning.

Before making an Order, the Minister must be satisfied of the following:

- there is a need for land to be made available for housing under the Homes Act to deliver affordable housing;
  - the land is suitable for residential use and is appropriately located in proximity to public and commercial services, public transport<sup>1</sup> and employment opportunities;
  - the intended zone is consistent with the State Policies, the relevant regional land use strategy, and furthers the Schedule 1 objectives of the LUPA Act;
  - the use and development of the land for residential purposes would not be significantly restricted by any codes that apply to the land under the relevant planning scheme;
  - that it has regard to any Guidelines issued under section 8A of the LUPA Act;
  - the environmental, economic and social effects, and the effect on Aboriginal and cultural heritage have been adequately considered;
- the intended zone would not be likely to create any significant land use conflicts; and
  - the intended zone enables the land to be developed at least to a suburban density (consistent with the SPPs General Residential Zone, or a residential zone that is suitable for the local conditions in the Flinders municipality).

## Consultation and submissions

All Orders are subject to a 28 day public consultation period<sup>2</sup>.

In undertaking public consultation on a proposed Housing Land Supply Order, the Minister must:

- publish notices in the relevant newspapers announcing the commencement of the consultation period and inviting submissions;
- make the exhibition documents available for public viewing at:
  - a nominated website address;
  - the offices of the relevant council for that municipality;
  - a Service Tasmania shop within that municipality (if any); and
  - a Service Tasmania shop that is within another municipality of it is the closer to the site; and
- give written notice to ‘interested persons’.

<sup>1</sup> The requirement for the land to be in proximity to public transport does not apply within the Flinders municipality.

<sup>2</sup> The HLS Act was amended in November 2021 to change the consultation requirements for proposed Orders. Prior to this all proposed Orders were subject to a 14 day targeted consultation period with ‘interested persons’.

### **Exhibition documents**

These are the documents that must be made available for public viewing during the 28 day consultation period on a proposed Order. They include:

- a copy of the proposed Order;
- the Minister’s statement of reasons on why they want to make the proposed order and their opinion on satisfying the assessment criteria under the HLS Act; and
- any other information that the Minister thinks fit.

### **Interested persons**

‘Interest persons’ are those given written notice of the commencement of the public consultation process on a proposed Order. These include:

- the local council, and any adjacent council that may be affected;
- relevant State agencies;
- State authorities, or other entities, that are likely to be required to provide infrastructure to the land, or may have its services affected;
- the owners or occupiers of adjoining land;
- the owners or occupiers of any other land that may be affected; and
- the Tasmania Fire Service, the Tasmanian Heritage Council, and the Aboriginal Heritage Council.

Submissions on a proposed Order must be received during the consultation period, or a longer period allowed by the Minister.

The submissions may relate to the following matters:

- the suitability of the land for residential use;
- the suitability of the zoning intended for the land;
- compliance with the assessment criteria under the HLS Act; and
- the suitability of any of the planning controls that will apply to the land.

The Minister must consider any submissions received during the public consultation period. After considering the submissions, the Minister may:

- table the proposed Order in both Houses of Parliament;
- modify the proposed Order before tabling it in both Houses of Parliament; or
- determine to not progress the proposed Order.

If significant modifications are made to either the character or effect of the proposed Order, the Minister must re-commence the process as if it were a new Order.

If it is determined to not progress with the proposed Order, the Minister must publish reasons and make all submissions publicly available.

## Parliamentary scrutiny

Before making an Order, the Minister must table the proposed Order in both Houses of Parliament (the House of Assembly and the Legislative Council). The documentation tabled must include:

- the proposed Order and a statement of the reasons why the Minister wants to make the proposed Order;
- a copy of each submission received;
- the Minister's opinion on each submission;
- if the proposed Order has been altered, a statement as to how and why it was altered; and
- any other information that the Minister considers relevant to the proposed Order.

There is a 5 sitting day period in which both Houses of Parliament may disallow a proposed Order. The Minister may make the Order after the end of the disallowance period in both Houses of Parliament.

## Declaring a Housing Land Supply Order and amending the planning scheme

The making of an Order requires the Minister to publish a notice in the Gazette specifying the effective date.

The Minister then directs the Tasmanian Planning Commission to make the necessary amendments to the relevant planning scheme to implement the Order.

The Minister must give notice of the amended planning scheme and its effective date, including publishing a notice in the Gazette and newspaper.

The zone assigned to the land by an Order cannot be amended by a planning scheme amendment under the LUPA Act without the permission of the Minister.

## Revoking and amending a Housing Land Supply Order

The HLS Act allows for an Order to be revoked or amended after they are made.

To amend an Order, the Minister must follow the same process as if it were a new Order, including public consultation and parliamentary scrutiny.

To revoke an Order, the Minister must be satisfied that either:

- the land is no longer eligible for an Order; or
- the land has been developed in accordance with the Order.

## Expiry of the Housing Land Supply Act

The Minister is only empowered to make Orders for a 5 year period following the commencement of the HLS Act. This expires on 20 July 2023.

Any Orders made before this expiry date continue to have effect.

If the land is not developed for residential purposes, or transferred to another person under the Homes Act, within 10 years of the Order being made, the Minister may transfer the land to the Crown.

## Where can I find more information?

**Enquiries about the Housing Land Supply Act process** can be directed to the:

Planning Policy Unit  
Department of Premier and Cabinet  
GPO Box 123  
HOBART TAS 7001

Telephone: (03) 6166 1429  
Email: [planning.unit@justice.tas.gov.au](mailto:planning.unit@justice.tas.gov.au)

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

**Enquiries about the *Homes Act 1935* or the development of land under a Housing Land Supply Order** should be directed to:

Portfolio and Supply Unit  
Department of Communities Tasmania  
GPO Box 65  
HOBART TAS 7001

Telephone: 1800 995 653  
Email: [ctecc@communities.tas.gov.au](mailto:ctecc@communities.tas.gov.au)

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