



14 May 2018

Planning Policy Unit
Department of Justice
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Hobart TAS 7001

By email: Planning.Unit@justice.tas.gov.au

Dear Liza,

Draft Residential Housing Supply Bill 2018

Thank you for the opportunity to comment on the *draft Residential Housing Supply Bill 2018* (the **Bill**). EDO Tasmania strongly supports efforts to improve housing availability and affordability and welcomes government activity in this area.

It is also critical that the land release and planning permissions contemplated by the Bill are supported by long-term strategic responses to facilitate the development of affordable housing throughout Tasmania. These could include:

- A State Policy or Planning Policy on Housing requiring a greater housing mix to be provided by residential proposals, supported by legislative amendments providing incentives (such as higher density allowances) for developments to include affordable housing components.
- A Planning Directive mandating affordable housing contributions as part of all large residential developments (whether subdivision or multiple dwelling proposals).
- Updating objectives in the *Land Use Planning and Approvals Act 1993* and local area objectives within the Tasmanian Planning Scheme reflecting the need for an equitable housing mix across Tasmania.

This submission briefly outlines comments in relation to the Bill.

Provision of affordable housing

The Bill refers to the provision of “affordable housing” as a threshold consideration for declaration of housing supply land (clause 5) or issuing of a subdivision permit (clause 19) but does not provide a definition of this term. Given its significance in determining the suitability of land release or residential development potential (including the exemption from normal planning processes) it is important that the Bill defines “affordable housing”.

Further, a subdivision permit may be issued if “some” of the lots will be made available for affordable housing. The long title of the Act recognises the acute need for affordable housing, so we recommend that clearer guidance be provided regarding the expected contribution of new subdivisions to meeting affordable housing goals.

The effect of the Bill is to allow rezoning, amendment of use and development standards, and subdivision outside the normal planning process. It is critical that decisions under the Bill are not just a quick route for new residential land – the objectives of the legislation must be satisfied.

The Bill provides for approval of temporary emergency residential planning permits but provides little guidance as to what form such accommodation will take. While regard is to be had to amenity impacts on adjoining properties, safety and hygiene, the Bill does not require consideration of amenity, personal safety (e.g. lighting, security of homes), or accessibility for residents of the temporary accommodation.

The Bill contemplates permits being issued for up to 6 years, so clear guidance on the minimum standards expected for the design and construction of temporary dwellings will be important.

Recommendations:

- Include a definition of “affordable housing” in clause 3 – organisations such as Shelter Tasmania Inc should be consulted in relation to an appropriate definition.
- Introduce regulations setting out minimum affordable housing provisions within subdivisions authorised under the Bill, and minimum standards for temporary emergency accommodation.

Appropriate sites

The Bill requires the Minister to be satisfied that there is an “urgent need” for additional housing supply land before making any amendment to Schedule 1. It is not clear what will be required to demonstrate urgent need.

We recommend that any declaration proposal should be supported by the release of an audit of currently available serviced land within the region to allow informed consideration of the need for further land release. Well-designed incentives to encourage residential development (including affordable housing) on existing lots may deliver better, more strategic, long-term outcomes than releasing new Crown land outside residential growth boundaries.

We support the requirement for the Minister to have regard to State Planning Provisions, State Policies and the relevant regional land use strategy in determining suitability of housing supply land. Again, there is little guidance as to what criteria will be required to establish suitability – while regard is to be had to the regional land use strategies, the Bill does not prevent release of land that is not contemplated by those strategies.

Further, temporary emergency residential planning permits (which are not limited to Crown land) can currently be issued without any regard to whether there is a need for emergency residential development. The Minister is required to consider whether the site is suitable for emergency accommodation, but this could apply broadly and potentially allow the establishment of a wide range of backyard ‘granny flat’ developments that may subsequently seek retrospective planning approval once the “emergency” permit lapses.

Recommendations:

- Proposals to amend Schedule 1 (that is, declare housing supply land) should be supported by the public release of an audit of available serviced land.
- Introduce regulations establishing criteria for the selection of suitable sites for residential development, including current availability of serviced land in the region, access to services, employment, schools and public transport, and the extent of vegetation clearance required to develop the site.
- Amend clause 23 to require the Minister to be satisfied that there is a need for temporary, emergency accommodation in the area in which the permit will be issued.

Consultation

Given the importance of identifying suitable sites for residential development, specifically for those requiring affordable housing, organisations like TasCOSS, Shelter Tasmania or similar, and the Planning Institute should be consulted. Those organisations will be well placed to analyse the

suitability of selected sites having regard to social inclusion, economic considerations, and regional planning and infrastructure requirements.

Further, the Bill does not provide for any public notification or consultation in relation to declaration of housing supply land, the application, exclusion or relaxation of use and development standards, or approval of subdivision permits (other than immediate neighbours). We appreciate the underlying urgency driving this legislation but consider that opportunities should be provided for public input into potentially significant residential developments and the planning provisions that will apply (or not apply) to them.

The opportunity to lobby parliamentarians to disallow declarations or approvals is not an adequate substitute for public consultation.

Recommendations:

- Amend clauses 8(3) and 20(3) to include social housing advocacy organisations and the Planning Institute as “relevant interested persons”.
- Require public notice of a proposed amendment to Schedule 1 and approval of a subdivision and allow 14 days for public comment. All comments received must be considered by the Minister before determining whether to proceed.

Other matters

Clause 14 of the Bill contemplates that, where land ceases to be housing supply land, the underlying zoning will revert to its previous zoning. Without a sunset clause on the operation of the Bill, the decision that the land is not needed as housing supply land may occur a long time after the initial declaration. While there is some merit in removing any special provisions / exclusions from the planning scheme provided by Schedule 1, the previous zoning may no longer be appropriate if services have been provided to the land and strategic decisions made around its future use as residential land. Any decisions regarding the appropriate zoning should be made by the Planning Commission at the time, having regard to surrounding uses, regional strategies, any applicable planning policies and the advice of the relevant planning authority.

We support the Bill operating as a short-term measure only to address the acute housing shortage, while strategic, long-term approaches to housing are implemented. In the longer-term, rezoning and subdivision approvals should not be made without going through the standard planning processes and subject to public involvement.

Recommendations:

- Amend clause 14 to require the Planning Commission to determine the zoning of land after it ceases to be housing supply land, having regard to local and regional planning strategies.
- Introduce a sunset clause limiting the operation of the Bill to the period required to address the immediate housing crisis. We recommend that this period be no longer than 4 years.

If you would like to discuss any of these comments, please do not hesitate to contact me on (03) 6223 2770.

Yours sincerely,

Environmental Defenders Office (Tas) Inc.



Jess Feehely
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