

I certify that this is a copy of the authorised version of this Act as at 1 December 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 21 September 2023.

K Woodward
Chief Parliamentary Counsel
Dated 22 September 2023



TASMANIA

HOUSING LAND SUPPLY ACT 2018

No. 8 of 2018

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HOUSING LAND SUPPLY ACT 2018

No. 8 of 2018

An Act to assist the acute demand for housing to be met, by enabling the rapid, appropriate rezoning of certain government land, the alteration of planning provisions that apply to such land, the transfer to Homes Tasmania of Crown land that is declared to be housing supply land under this Act, and for related purposes

[Royal Assent 20 July 2018]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Housing Land Supply Act 2018*.

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Part 1 – Preliminary

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Interpretation

In this Act, unless the contrary intention appears –

applicable planning scheme, in relation to an area of land, means the planning scheme that applies to the area of land;

commencement day means the day on which this Act commences;

Commission means the Tasmanian Planning Commission established under the *Tasmanian Planning Commission Act 1997*;

Crown land has the same meaning as in the *Crown Lands Act 1976*;

government land means land that is –

- (a) Crown land; or
- (b) Homes Tasmania Act land; or
- (c) owned in fee simple by the body corporate continued under section 4 of the *Tasmanian Development Act 1983*;

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Head of Agency has the same meaning as in the *State Service Act 2000*;

Homes Tasmania means Homes Tasmania established by section 9(1) of the *Homes Tasmania Act 2022*;

Homes Tasmania Act land means land acquired, vested in or held under the *Homes Tasmania Act 2022* by Homes Tasmania;

housing land supply order means an order made under section 4(1), as amended, if at all, under section 8(1), that has not been revoked by an order that is in effect under section 14(3);

housing supply land means land –

- (a) that is declared to be housing supply land in a housing land supply order; and
- (b) that has not, in accordance with section 14(4), ceased to be housing supply land;

interested persons – see section 11;

LPS has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

planning authority has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

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planning scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

regional land use strategy, in relation to an area of land, means the regional land use strategy that applies, under the *Land Use Planning and Approvals Act 1993*, to the area of land;

site-specific qualification, in relation to an area of land, means a site-specific qualification, under the applicable planning scheme, in relation to the area of land;

specific area plan, in relation to an area of land, means a specific area plan, under the applicable planning scheme, in relation to the area of land;

State Policies means each –

- (a) Tasmanian Sustainable Development Policy made under section 11 of the *State Policies and Projects Act 1993*; and
- (b) Tasmanian Sustainable Development Policy that has come into operation under section 12 of the *State Policies and Projects Act 1993*; and
- (c) national environment protection measure that is taken under section 12A of the *State Policies*

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and Projects Act 1993 to be a
Tasmanian Sustainable
Development Policy;

statutory authority means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority;

Tasmanian Planning Scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

the SPPs has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

Water Corporation means the Corporation within the meaning of the *Water and Sewerage Corporation Act 2012*;

zoning map, in relation to an applicable planning scheme, has the same meaning as it has in the applicable planning scheme.

PART 2 – HOUSING LAND SUPPLY ORDERS

Division 1 – Making and amendment of housing land supply orders

4. Housing land supply orders

(1) The Minister may make an order (*a housing land supply order*) declaring to be housing supply land an area of land that is specified in the order and that may, under section 5, be declared to be housing supply land.

(1A) An order may only be made under subsection (1) before 1 January 2033.

(2) A housing land supply order may, if such a provision may be included in the order in accordance with section 6, include a provision declaring a zone, referred to in the applicable planning scheme, to be the intended zone in relation to all or part of an area of land specified in the order to be housing supply land.

(3) A housing land supply order may include, in relation to all or part of an area of land specified in the order to be housing supply land, any one or more of the provisions, that may, in accordance with section 7, be included for the purposes of this subsection.

(4) A housing land supply order takes effect on the day on which it is notified in the *Gazette* or a later day that is specified in the notice in the *Gazette* as the day on which it is to take effect.

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- (5) A housing land supply order is a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (6) For the avoidance of doubt, any amendment made to this Act by the *Housing Land Supply Amendment Act 2023* does not affect the validity of a housing land supply order, or a proposed housing land supply order, made or proposed in accordance with this Act, as in force before the commencement of that Act.

5. Land that may be declared to be housing supply land

- (1) The Minister must not, in a housing land supply order, declare an area of land to be housing supply land unless –
- (a) the area of land is government land; and
 - (b) the area of land was government land on the commencement day or became, after that day, Homes Tasmania Act land; and
 - (c) the area of government land is not –
 - (i) reserved land under the *Nature Conservation Act 2002*; or
 - (ii) managed under the *National Parks and Reserves Management Act 2002*; or
 - (iii) managed under the *Wellington Park Act 1993*; and

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- (d) the area of government land is not –
 - (i) permanent timber production zone land, within the meaning of the *Forest Management Act 2013*; or
 - (ii) future potential production forest land, within the meaning of the *Forestry (Rebuilding the Forest Industry) Act 2014*.
- (e)
- (2) The Minister must not, in a housing land supply order, declare an area of land to be housing supply land unless he or she is satisfied that –
 - (a) there is a need for land to be made available for the purposes of the *Homes Tasmania Act 2022*; and
 - (b) the area of land is suitable for use for residential purposes by virtue of its proximity to public and commercial services, public transport and places that may provide opportunities for employment.
- (3) The Minister must not, in a housing land supply order, declare to be housing supply land an area of land that is Crown land, without the consent of –
 - (a) the Minister administering the *Crown Lands Act 1976*; and

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- (b) if there is a Portfolio Department, within the meaning of the *Crown Lands Act 1976*, in relation to the area of land – the Secretary of the Portfolio Department.
- (4) The Minister must not, in a housing land supply order, declare to be housing supply land an area of land that is Homes Tasmania Act land, without the consent of Homes Tasmania.
- (5) The Minister must not, in a housing land supply order, declare to be housing supply land an area of land that is owned in fee simple by the body corporate continued under section 4 of the *Tasmanian Development Act 1983*, without the consent of the Board, within the meaning of that Act.
- (6) The reference to public transport in subsection (2)(b) does not apply in relation to land within the municipality of Flinders.

6. Inclusion of intended zones in housing land supply orders

- (1) The Minister must not include in a housing land supply order a provision, referred to in section 4(2), declaring a zone, referred to in the applicable planning scheme, to be the intended zone in relation to an area of land or part of an area of land, unless –
- (a) the Minister is satisfied that to assign the intended zone to the area of land or part –

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- (i) would be consistent with the State Policies; and
 - (ii) would be, as far as practicable, consistent with the regional land use strategy in relation to the area of land or part; and
 - (iii) satisfies the relevant criteria in relation to the TPPs, within the meaning of the *Land Use Planning and Approvals Act 1993*; and
- (b) the Minister is satisfied that, if the intended zone were to be assigned to the area of land or part, the use or development of the area of land or part for residential purposes would not be significantly restricted by the requirements of any code that applies to the area of land or part under the applicable planning scheme; and
 - (c) the Minister is satisfied that to assign the intended zone to the area of land or part would further the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (d) having considered any guidelines under section 8A of the *Land Use Planning and Approvals Act 1993*, the Minister is satisfied that to assign the intended zone to the area of land or part would be consistent with the zone purpose

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specified in the SPPs in relation to the intended zone, whether or not the Tasmanian Planning Scheme is the applicable planning scheme in relation to the area of land or part; and

- (e) the Minister has considered the environmental, economic and social effects, and the effect on Aboriginal and cultural heritage, that assigning the intended zone to the area of land or part may have; and
 - (f) the Minister is satisfied that, if the intended zone were assigned to the area of land or part, the use or development of the area of land or part, respectively, for residential purposes would not be likely to create significant land use conflict with –
 - (i) an existing use on any part of the land; or
 - (ii) the use or development of any area of land that is adjacent to the area of land; or
 - (iii) the use or development of any area of land that, in the opinion of the Minister, is likely to be affected by the use or development of the area of land or part.
- (2) The Minister must not include in a housing land supply order a provision, referred to in

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section 4(2), declaring a zone, referred to in the applicable planning scheme, to be the intended zone in relation to an area of land or part of an area of land, unless –

- (a) both of the following apply:
 - (i) the provisions, of the intended zone, are such that the minimum size of a lot, or the maximum area of land for a dwelling, that complied with those provisions would be no more than the minimum size of a lot, or the maximum area of land for a dwelling, that complied with the provisions of the SPPs in relation to the General Residential Zone;
 - (ii) the area of land, or the part of the area of land, is not within the municipality of Flinders; or
- (ab) the area of land, or the part of the area of land, is within the municipality of Flinders and the intended zone is one of the following zones:
 - (i) the Residential Zone under the Flinders Planning Scheme 2000;
 - (ii) the Low Density Residential Zone under the Tasmanian Planning Scheme;
 - (iii) the Village Zone under the Tasmanian Planning Scheme –

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and the Minister is satisfied that the area, or part, can be adequately supplied with a water supply and wastewater treatment and that stormwater can be appropriately managed; or

- (b) the intended zone is to relate to part only of the area of land and is a zone –
 - (i) that complies paragraph (a) or (ab); or
 - (ii) that is necessary or appropriate for the purposes of a subdivision of the area of land for residential purposes; or
 - (iii) that applies to the part of the area of land immediately before the intended zone is specified, in relation to the land, in the order.

7. Modifications of planning requirements that may be specified in housing land supply order

- (1) In this section –

relevant housing provision, in relation to an area of land or part of an area of land, means a provision, of the applicable planning scheme in relation to the area of land, that –

- (a) specifies a use standard, or a development standard, in respect

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of a zone that complies with section 6(2)(a); or

- (b) specifies whether a permit, within the meaning of the *Land Use Planning and Approvals Act 1993*, is required in relation to a type of residential use or development in a zone that complies with section 6(2)(a); or
- (c) is in the code, in the applicable planning scheme, that deals with parking and access requirements; or
- (d) relates to the interpretation of words or phrases;

relevant SPPs provision, in relation to an area of land or part of an area of land, means a provision, of the SPPs, that –

- (a) is a use standard, or a development standard, in relation to the General Residential Zone, the Inner Residential Zone, or the Urban Mixed Use Zone, referred to in the SPPs; or
- (b) is in the code, referred to as the Parking and Sustainable Transport Code, in the SPPs; or
- (c) relates to the interpretation of words or phrases.

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- (2) Any one or more of the following provisions may be, for the purposes of section 4(3), included, in a housing land supply order, in relation to an area of land, or a part of an area of land, that is specified in the housing land supply order to be housing supply land:
- (a) a provision specifying how a relevant housing provision is to be modified in relation to its application to the area of land or the part;
 - (b) a provision specifying that a relevant housing provision is not to apply in relation to the area of land or the part;
 - (c) a provision specifying that there is to apply in relation to the area of land or the part –
 - (i) a relevant SPPs provision that is specified in the provision in the order; or
 - (ii) a relevant SPPs provision that is specified, in relation to the area of land or the part, in the provision in the order and that is modified as specified in the provision in the order.

8. Amendment of housing land supply orders

- (1) The Minister may, by order, amend a housing land supply order –

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- (a) so as to –
 - (i) amend a provision, in the housing land supply order, that specifies the area of land that is declared in the order to be housing supply land; or
 - (ii) amend a provision, referred to in section 4(2) or (3), that has been included in the order; or
 - (iii) include in the order a provision referred to in section 4(2) or (3); or
 - (b) by revoking a provision, referred to in section 4(2) or (3), that has been included in the order.
- (2) An order under subsection (1) may only amend a provision, in a housing land supply order, that specifies the area of land that is declared in the order to be housing supply land if the provision, as so amended, refers to land that may be, in accordance with section 5, declared to be housing supply land.
- (3) An order under subsection (1) may only amend a housing land supply order –
- (a) by amending a provision, referred to in section 4(2), that has been included in the housing land supply order; or
 - (b) so as to include a provision referred to in section 4(2) –

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if the provision as so amended or included may, in accordance with section 6, be included in a housing land supply order.

- (4) An order under subsection (1) may only amend a housing land supply order –
- (a) by amending a provision, referred to in section 4(3), that has been included in the housing land supply order; or
 - (b) so as to include a provision referred to in section 4(3) –

if the provision as so amended or included may, in accordance with section 7, be included in a housing land supply order.

- (5) An order under subsection (1) takes effect on the day on which it is notified in the *Gazette* or a later day that is specified in the notice in the *Gazette* as the day on which it is to take effect.
- (6) An order under subsection (1) is a statutory rule for the purposes of the *Rules Publication Act 1953*.

Division 2 – Consultation and parliamentary scrutiny in respect of proposed orders

9. Parliament may disallow proposed housing land supply orders and amendments

- (1) The Minister must not make an order under section 4(1) or section 8(1) unless –

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- (a) he or she has laid before both Houses of Parliament under subsection (2) –
 - (i) a proposed order in the form of the order to be made under section 4(1) or section 8(1); and
 - (ii) the report in relation to the proposed order; and
 - (b) the proposed order has not been disallowed by a House of Parliament under subsection (4).
- (2) The Minister may lay before each House of Parliament –
- (a) an order (a *proposed order*) that the Minister proposes to make under section 4(1) or section 8(1) in relation to an area of land; and
 - (b) the report in relation to the proposed order; and
 - (c) a document containing such other information, if any, in relation to the proposed order, that the Minister thinks fit.
- (3) For the purposes of this section, the report in relation to a proposed order is a report setting out –
- (a) the reasons why the Minister wants to make a housing land supply order in the form of the proposed order; and

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- (b) the reasons why the Minister is satisfied that the Minister may make a housing land supply order in the form of the proposed order, including the reasons why, in the opinion of the Minister, the Minister would not contravene section 5(2) or section 6(1) or (2) by making a housing land supply order in the form of the proposed order; and
 - (c) a copy of each submission made under section 13(1) in relation to the area of land; and
 - (d) the Minister’s opinion in respect of the matters raised in the submissions made to the Minister under section 13(1) in relation to the area of land; and
 - (e) if the proposed order is an order that was altered by the Minister in accordance with section 10(2) – a statement as to how and why the order was altered.
- (4) A House of Parliament may, within 5 sitting-days after a proposed order has been laid before the House under subsection (2), disallow the proposed order.

10. Consultation to occur before housing land supply orders put before Parliament

- (1) The Minister must not make an order under section 4(1) or section 8(1) unless, before laying before both Houses of Parliament in accordance with section 9 the proposed order in the form of

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the order to be made under section 4(1) or section 8(1) –

- (a) the Minister has complied with section 12 in relation to the proposed order; and
 - (b) the period, in which a person may make to the Minister under section 13(1) a submission in relation to the area of land to which the proposed order relates, has expired; and
 - (c) the Minister has considered any submissions made to the Minister under section 13(1) in relation to the area of land.
- (2) The proposed order, in relation to an area of land, that may be laid before both Houses of Parliament in accordance with section 9 may be a proposed order –
- (a) that has been publicly exhibited in accordance with section 12; and
 - (b) that has been altered by the Minister after the Minister has considered any submissions, made to the Minister under section 13(1), in relation to the area of land to which the proposed order relates –

except if the Minister has so altered the proposed order as to significantly change either the character or effect of the proposed order.

11. Interested persons

For the purposes of this Act, the interested persons in relation to an area of land are –

- (a) the planning authority in relation to the area of land; and
- (b) the Head of an Agency that the Minister considers has an interest in whether, or the manner in which, the area of land ought to be used or developed, or both, for residential purposes; and
- (c) a statutory authority, or other entity, if the Minister considers –
 - (i) that the authority or entity is likely to be required to provide electricity, gas, sewerage, telecommunications or water to the area of land; or
 - (ii) that the efficient or effective provision by the authority or entity of electricity, gas, sewerage, telecommunications or water is likely to be affected by the use or development of the land for residential purposes; and
- (d) any owner, or occupier, of –
 - (i) land that adjoins the area of land;
or

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- (ii) land that the Minister considers is likely to be affected by the use or development, for residential purposes, of the area of land; and
- (e) the Tasmania Fire Service within the meaning of the *Fire Service Act 1979*; and
- (f) the Heritage Council within the meaning of the *Historic Cultural Heritage Act 1995*; and
- (g) the Aboriginal Heritage Council within the meaning of the *Aboriginal Heritage Act 1975*; and
- (h) the planning authority in relation to land, if any, that –
 - (i) is adjacent to the area of land or that, in the opinion of the Minister, may be affected by the use or development, for residential purposes, of the area of land; and
 - (ii) is not within the same municipal area, within the meaning of the *Land Use Planning and Approvals Act 1993*, as the area of land.

12. Giving of notice to public and interested persons

- (1) In this section –

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exhibition documents, in relation to a proposed order, means –

- (a) the proposed order; and
- (b) a statement as to –
 - (i) the reasons why the Minister wants to make a housing land supply order in the form of the proposed order; and
 - (ii) the reasons why the Minister is of the opinion that the Minister may make a housing land supply order in the form of the proposed order, including the reasons why, in the opinion of the Minister, the Minister would not contravene section 5(2) or section 6(1) or (2) by making a housing land supply order in the form of the proposed order; and
- (c) such other information, if any, in relation to the proposed order, that the Minister thinks fit;

exhibition notice, in relation to a proposed order, means an exhibition notice, in accordance with subsection (3), in relation to the proposed order;

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exhibition period, in relation to a proposed order, means the period of 28 days –

- (a) beginning on the day on which, in accordance with subsection (2)(b), the exhibition documents in relation to the proposed order begin to be available for viewing by members of the public; and
 - (b) excluding any days on which the offices of the council for the municipality in which is situated the area of land to which the proposed order relates are closed during normal business hours.
- (2) If the Minister is proposing to make an order under section 4(1) or section 8(1) in relation to an area of land, the Minister must ensure that –
- (a) an exhibition notice, in relation to the proposed order, is published –
 - (i) once before the beginning of the exhibition period in relation to the proposed order; and
 - (ii) once within the 14-day period after the beginning of the exhibition period in relation to the proposed order –

in a newspaper that is published, and circulates generally, in Tasmania; and

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- (b) the exhibition documents in relation to the proposed order have been made available, for all of the exhibition period in relation to the proposed order, for viewing by members of the public at the electronic address, and at the places, specified, in accordance with subsection (3)(d), in the exhibition notice; and
 - (c) before the exhibition period begins, there is given, to each interested person in relation to the land, a notice –
 - (i) containing a copy of the exhibition notice; and
 - (ii) inviting the person to make a submission to the Minister within the exhibition period.
- (3) An exhibition notice in relation to a proposed order is to specify –
- (a) that the Minister is proposing to make, or amend, as the case may be, a housing land supply order; and
 - (b) the area of land to which the proposed order relates; and
 - (c) the exhibition period in relation to the proposed order; and
 - (d) that a copy of the proposed order and a statement of –

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- (i) the reasons why the Minister wants to make a housing land supply order in the form of the proposed order; and
- (ii) the reasons why the Minister is of the opinion that the Minister may make a housing land supply order in the form of the proposed order, including the reasons why, in the opinion of the Minister, the Minister would not contravene section 5(2) or section 6(1) or (2) by making a housing land supply order in the form of the proposed order –

may be viewed by members of the public, during the exhibition period in relation to the proposed order, at an electronic address, and the places, specified in the notice; and

- (e) that members of the public are invited to make to the Minister, in the manner specified in the notice, submissions, in relation to the area of land to which the proposed order relates, within the exhibition period in relation to the proposed order; and
- (f) the relevant matters, for the purposes of section 13(2), in relation to which such submissions may be made.

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- (4) The places specified in accordance with subsection (3)(d) in relation to a proposed order are to include –
- (a) the offices of the council for the municipality in which is situated the area of land to which the proposed order relates; and
 - (b) an office of Service Tasmania, if any, to which members of the public have access, that is within the municipality in which is situated the area of land to which the proposed order relates; and
 - (c) if there is an office of Service Tasmania, to which members of the public have access, that is not within the municipality in which is situated the area of land to which the proposed order relates but that is the office that is closest to the area of land – that office.

13. Submissions in relation to proposed orders

- (1) A person may, within the exhibition period, within the meaning of section 12, in relation to a proposed order, make to the Minister a submission in relation to the relevant matters in respect of the proposed order.
- (2) For the purposes of subsection (1), the relevant matters in respect of a proposed order in respect of an area of land are the following:

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- (a) if the proposed order is to declare the area of land, or is to amend a housing land supply order so that it declares the area of land, to be an area of housing supply land and the land is not zoned, under the applicable planning scheme, for residential use – the suitability for residential use of the area of land;
- (b) if the proposed order is to include, or is to amend a housing land supply order so that it includes, a provision, referred to in section 4(2), specifying a zone to be the intended zone in relation to the area of land or part of the area of land – the suitability, in relation to the area or part, of the intended zone;
- (ba) whether the Minister would, or would not, contravene section 5(2) or section 6(1) or (2) by making a housing land supply order in the form of the proposed order;
- (c) if the proposed order is to include, or is to amend a housing land supply order so that it includes, a provision, referred to in section 4(3), in relation to the area of land or part of the area of land – the suitability, in relation to the area or part, of the proposed provision;
- (d) if the proposed order is to amend a provision, referred to in section 4(3), included, in relation to the area of land or part of the area of land, in a housing land

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supply order – the suitability, in relation to the area or part, of the proposed amendment;

- (e) if the proposed order is to revoke a provision referred to in section 4(2) or (3) – whether the provision ought to be amended or revoked.

13A. Notice to be given of decision not to proceed with proposed order

If, after complying with the requirements of section 10 in relation to a proposed order in relation to an area of land, the Minister decides not to lay a proposed order before both Houses of Parliament under section 9(2), the Minister must ensure that –

- (a) a notice, specifying the decision, the proposed order to which it relates and the reasons why the Minister has made the decision, is given to –
 - (i) each interested person in relation to the area of land; and
 - (ii) each person who made a submission under section 13(1) in relation to the area of land; and
- (b) there are made available for viewing by members of the public, at a website of the Department, for a period of not less than 6 months, copies of –

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- (i) the reasons why the Minister has made the decision; and
- (ii) each submission made under section 13(1) in relation to the area of land and the Minister's response in relation to each of the submissions.

Division 3 – Revocation of housing land supply orders

14. Revocation of housing land supply order

- (1) The Minister may, by order, revoke a housing land supply order.
- (2) The Minister may only make an order under subsection (1) in relation to an area of land if he or she is satisfied that –
 - (a) the area of land is no longer an area of land that, in accordance with section 5, may be declared to be housing supply land; or
 - (b) the area of land has been developed after a housing land supply order was made in relation to the area of land.
- (3) An order under subsection (1) takes effect on the day on which it is notified in the *Gazette* or a later day that is specified in the notice in the *Gazette* as the day on which it is to take effect.
- (4) An area of land that is housing supply land ceases to be such land when an order made

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under subsection (1) in relation to the area of land takes effect.

- (5) An order under subsection (1) is a statutory rule for the purposes of the *Rules Publication Act 1953*.

15. Notice to be given that land has ceased to be housing supply land

- (1) The Minister, as soon as practicable after making an order made under section 14(1), is to lay before each House of Parliament –
- (a) a copy of the order; and
 - (b) a statement setting out –
 - (i) the reasons why the Minister has made the order; and
 - (ii) the grounds on which the order may, under section 14(2), be made under section 14(1); and
 - (c) such other information in relation to the proposed order as the Minister thinks fit.
- (2) The Minister, as soon as practicable after making an order under section 14(1), is to cause to be published, in a newspaper that is published, and circulates generally, in Tasmania, a notice specifying –
- (a) that an area of land to which the order relates is to cease, or has ceased, to be housing supply land; and

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- (b) the day on which the area of land is to cease, or has ceased, to be housing supply land.

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**PART 3 – APPLICATION OF HOUSING SUPPLY LAND
FOR PURPOSES OF *HOMES TASMANIA ACT 2022***

16. Housing supply land vests in Homes Tasmania

On the day on which an area of land that is Crown land becomes housing supply land, the area of land is vested in Homes Tasmania.

17. Homes Tasmania to ensure housing supply land is developed or used for housing

Homes Tasmania is to take all reasonable steps to ensure that housing supply land is applied for the purposes of the *Homes Tasmania Act 2022*.

18. Former Crown land that is not developed within 10 years may be transferred back to Crown

- (1) If an area of land that has vested in Homes Tasmania under section 16 has not, within 10 years after the area of land became housing supply land –
- (a) been transferred to another person under the *Homes Tasmania Act 2022*; or
 - (b) been used or developed for the purposes of residential housing, which purposes may include –
 - (i) a use or development, of part of the land, that is necessary or appropriate for the purposes of a

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**PART 4 – REZONING AND ALTERATION OF
PLANNING REQUIREMENTS OF HOUSING SUPPLY
LAND**

19. Alteration of zoning of housing supply land

- (1) If a housing land supply order includes (including by virtue of an amendment under section 8(1)) a provision, referred to in section 4(2), specifying an intended zone in relation to an area of land or part of an area of land, the Minister, by notice in writing to the Commission, is to direct the Commission to amend the zoning map in relation to the area of land or the part.
- (2) If the Commission is given a direction under subsection (1) in relation to the intended zone in relation to an area of land or part of an area of land, the Commission, within 14 days or a longer period allowed by the Minister, must amend the zoning map that forms part of the applicable planning scheme, so that the intended zone is assigned by the zoning map to the area of land or the part, respectively.
- (3) If a housing land supply order is amended under section 8(1) so that a provision referred to in section 4(2) is revoked in relation to an area of land or part of an area of land and no other such provision is included in the order in relation to the area of land or the part, the Minister is to direct the Commission to amend the zoning map

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in relation to the area of land or the part, respectively.

- (4) If the Commission is given a direction under subsection (3) in relation to an area of land or part of an area of land, the Commission, within 14 days or a longer period allowed by the Minister, must amend the zoning map that forms part of the applicable planning scheme in relation to the area of land or the part, so that the area of land or the part, respectively, is, under the planning scheme –
- (a) assigned the same zone that was assigned to it before the area of land or part became housing supply land; or
 - (b) if the zone that was assigned to the area of land (the *previous zone*) before the area of land became housing supply land is not a zone in the applicable planning scheme – assigned the zone, in the applicable planning scheme, with the characteristics that most closely resemble the characteristics of the previous zone.

20. Alteration of planning provisions in relation to housing supply land

- (1) If a provision referred to in section 4(3) is specified, in relation to an area of land or part of an area of land, in a housing land supply order, the Minister is to direct the Commission to amend the applicable planning scheme in relation to the area of land or part, respectively.

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- (2) If the Commission is given a direction under subsection (1) in relation to an area of land or part of an area of land, the Commission, within 14 days or a longer period allowed by the Minister, must –
- (a) amend the applicable planning scheme so as to include in the planning scheme a specific area plan that is to apply to the area of land or part, respectively, and that consists of the provision referred to in subsection (1) in relation to the area of land or part; or
 - (b) if the Tasmanian Planning Scheme applies to the area of land or part – amend the LPS that applies to the area of land or part so that the LPS includes a site-specific qualification, or a specific area plan, that is to apply to the area of land or part, respectively, and that will contain provisions that will achieve the effect of the provision referred to in subsection (1) in relation to the area of land.
- (3) If a provision that is –
- (a) referred to in section 4(3); and
 - (b) specified, in relation to an area of land or part of an area of land, in a housing land supply order –

is amended or revoked by an order under section 8(1), the Minister is to direct the

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Commission to amend the applicable planning scheme in relation to the area of land or part, respectively.

- (4) If the Commission is given, pursuant to an order under section 8(1), a direction under subsection (3) in relation to an area of land or part of an area of land, the Commission, within 14 days or a longer period allowed by the Minister, must amend the applicable planning scheme in relation to the area of land or part, respectively, by making the appropriate amendments to the specific area plan, or the site-specific qualification, that contains the provision to which the order under section 8(1) relates.
- (5) For the purposes of subsection (4), the appropriate amendments to the specific area plan, or the site-specific qualification, that contains the provision to which the order under section 8(1) relates are the amendment or revocation, as the case may be, of the specific area plan, or the site-specific qualification, so as to reflect the amendment or revocation of the provision by the order under section 8(1).

21. Directions to amend planning scheme where land ceases to be housing supply land

- (1) If an area of land –
 - (a) has, by virtue of an order under section 14, ceased to be housing supply land; and

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- (b) was not used or developed for residential purposes after it became housing supply land –

the Minister may direct the Commission to amend the applicable planning scheme in relation to the area of land.

- (2) If the Commission is given a direction under subsection (1) in relation to an area of land, the Commission, within 14 days or a longer period allowed by the Minister, must amend the applicable planning scheme so that, as far as practicable –

- (a) the area of land –

- (i) is assigned, under the planning scheme, the same zone that was assigned to it before the land became housing supply land; or
- (ii) if the zone that was assigned to the area of land (the *previous zone*) before the area of land became housing supply land is not a zone in the applicable planning scheme – is assigned the zone, in the applicable planning scheme, with the characteristics that most closely resemble the characteristics of the previous zone; and

- (b) a specific area plan, or a site-specific qualification, in relation to the area of

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land, that was inserted in the planning scheme in accordance with a direction under this Act, is revoked.

22. Correction by Commission of anomalies, or minor mistakes, in applicable planning schemes

- (1) If a direction is given to the Commission under section 19, section 20 or section 21, then, despite any provision of the *Land Use Planning and Approvals Act 1993* or of a planning scheme that applies to an area of land to which the direction relates, the amendments that the Commission may, under the section under which the direction is given, make to the applicable planning scheme include the necessary amendments.
- (2) The necessary amendments are the amendments, to correct an anomaly or minor mistake in the applicable planning scheme, that are, in the opinion of the Commission, necessary for the purpose of enabling the direction to be effectively implemented.
- (3) If, after an area of land becomes housing supply land, the Tasmanian Planning Scheme becomes the applicable planning scheme in relation to the area of land, the Commission may, if it thinks it necessary or desirable to do so, amend, in so far as it applies to the area of land, the LPS that applies to the land, so as to correct a transitional anomaly or minor mistake in the LPS.

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- (4) A transitional anomaly or minor mistake in the LPS is an anomaly or minor mistake in the LPS that has arisen by virtue of –
- (a) the applicable planning scheme that applied to the area of land having been amended in accordance with a direction under this Act; and
 - (b) the Tasmanian Planning Scheme having subsequently become the applicable planning scheme in relation to the area of land.

23. Taking effect of, and notice of, amendment of planning scheme

- (1) The Commission is to notify the Minister if the Commission amends an applicable planning scheme in relation to an area of land under section 19, section 20, section 21 or section 22(3).
- (2) The Minister, as soon as practicable after being notified under subsection (1) of the amendment of an applicable planning scheme in relation to an area of land –
 - (a) is to notify of the amendment the interested persons, for the purposes of section 11, in relation to the land; and
 - (b) must cause to be published in the *Gazette* and in a newspaper that is published, and

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circulates generally in Tasmania, a notice –

- (i) that the amendment has been made; and
 - (ii) specifying the day on which the amendment is to take effect.
- (3) An amendment by the Commission of an applicable planning scheme under section 19, section 20, section 21 or section 22(3) takes effect on the day specified in the notice given under subsection (2)(b) as the day on which the amendment is to take effect.

24. Amendment in compliance with direction not to be taken to contravene Act, planning scheme, &c.

If a planning scheme is amended under section 19, section 20, section 21 or section 22, then, despite any provision of the *Land Use Planning and Approvals Act 1993* or of the planning scheme –

- (a) the amendment of the planning scheme is not to be taken to be invalid by reason only that –
 - (i) the planning scheme has not been amended in the manner, or following the procedure that, but for this Act, would have been required to be followed under the planning scheme or the *Land Use*

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1993; or

- (ii) but for this Act, the amendment of the planning scheme would be in contravention of that Act; and
- (b) a use or development of the land that is in accordance with the planning scheme as amended is not to be taken to be in contravention of section 63 of the *Land Use Planning and Approvals Act 1993*.

25. Applicable planning scheme not to be amended so as to alter amendments made under this Act

- (1) Despite any provision of the *Land Use Planning and Approvals Act 1993* or a planning scheme, the zone assigned to all or part of an area of land in accordance with an amendment, to a planning scheme, made under this Act may not, without the permission of the Minister, be amended under a planning scheme, except as required for the purposes of a subdivision in relation to the area of land.
- (2) Despite any provision of the *Land Use Planning and Approvals Act 1993* or a planning scheme, a provision of a planning scheme, other than a provision of the SPPs, may not, except with the approval of the Minister, be amended, otherwise than –
 - (a) under this Act; or

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(b) by an amendment to which section 40I(2)(b) of the *Land Use Planning and Approvals Act 1993* relates; or

(c) in the case of a planning scheme to which clause 3(2) of Schedule 6 to the *Land Use Planning and Approvals Act 1993* applies – by an amendment to which section 30IA or 37 of that Act, as in force before the commencement day, within the meaning of clause 1 of that Schedule, applies –

if the effect of the amendment would be to alter the effect of an amendment, to the planning scheme, that is made under this Act and that is in force.

(3) Subsections (1) and (2) do not apply in relation to an area of land that has ceased to be housing supply land.

PART 5 – MISCELLANEOUS

26. Calculation of periods

A reference in this Act to a period of days does not include any day that is a statutory holiday, within the meaning of the *Statutory Holidays Act 2000*.

27. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Minister.
- (4) The regulations may –
 - (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
 - (b) provide for savings or transitional matters necessary or expedient to enable this Act to apply effectively to areas of land subsequent to the Tasmanian Planning Scheme becoming the applicable planning scheme in relation to those areas of land; and

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Part 5 – Miscellaneous

- (c) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

28. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Planning; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

29. Transitional

If, before the day on which the *Housing Land Supply Amendment Act 2021* commences, a notice, referring to a proposed order, has been given under section 12(1) of this Act as in force immediately before that day, this Act, as in force immediately before that day, applies in relation to the proposed order as if the amendments to this Act made by the *Housing Land Supply Amendment Act 2021* were not in effect.

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NOTES

The foregoing text of the *Housing Land Supply Act 2018* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 December 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Housing Land Supply Act 2018</i>	No. 8 of 2018	20.7.2018
<i>Housing Land Supply Amendment Act 2023</i>	No. 18 of 2023	20.7.2018
<i>Housing Land Supply Amendment Act 2021</i>	No. 27 of 2021	29.11.2021
<i>Homes Tasmania (Consequential Amendments) Act 2022</i>	No. 26 of 2022	1.12.2022

TABLE OF AMENDMENTS

Provision affected	How affected
The long title	Amended by No. 26 of 2022, s. 23
Section 3	Amended by No. 27 of 2021, s. 4 and No. 26 of 2022, s. 24
Section 4	Amended by No. 18 of 2023, s. 4
Section 5	Amended by No. 27 of 2021, s. 5, No. 26 of 2022, s. 25 and No. 18 of 2023, s. 5
Section 6	Amended by No. 27 of 2021, s. 6
Section 9	Amended by No. 27 of 2021, s. 7
Section 10	Amended by No. 27 of 2021, s. 8
Section 12	Substituted by No. 27 of 2021, s. 9
Section 13	Amended by No. 27 of 2021, s. 10
Section 13A	Inserted by No. 27 of 2021, s. 11
Part 3	Substituted by No. 26 of 2022, s. 26
Section 16	Substituted by No. 26 of 2022, s. 26
Section 17	Substituted by No. 26 of 2022, s. 26
Section 18	Substituted by No. 26 of 2022, s. 26
Section 29	Inserted by No. 27 of 2021, s. 12