

# Subject: Drafting and review of new local area objectives

1. These Guidelines apply to the preparation of new local area objectives (LAOs) proposed for zones or specific area plans (SAPs) in a draft Local Provisions Schedule (LPS). They do not apply to those LAOs that are transitioning under Schedule 6 of the *Land Use Planning and Approvals Act 1993* (the Act).

Reference is made to LAOs in clause LP1.3 of the Tasmanian Planning Scheme and in the Commission's Practice Note 8, which states:

'... the purpose and intent of the LAO must be drafted in clear and precise language. However, it is recognised that, of their nature, LAOs identify and state planning outcomes that are sought to be achieved and provide assistance with discretionary decision making.

...LAOs are intended to indicate a desired outcome linked to the exercise of discretion, statements specifying mandatory outcomes are to be avoided...'

General advice on drafting principles, conventions and style of LAOs is set out in the Commission's Practice Note 5.

2. The State Planning Provisions of the Tasmanian Planning Scheme (SPPs) allow for the inclusion of LAOs in zones and SAPs.

In the SPPs, use standards within the Urban Mixed Use Zone, Local Business Zone, General Business Zone, Central Business Zone, Commercial Zone, Light Industrial Zone, General Industrial Zone and Major Tourism Zone specifically refer to any relevant LAOs for the assessment of uses against the Performance Criteria (PC).

A PPZ may also reference any relevant LAOs for the assessment of use against a PC.

A SAP may include having regard to a LAO in the PC of a use or development standard.

3. Clause 6.10.2 of the SPPs provides that (emphasis added):

.... in determining an application for a Discretionary Use the planning authority must, .... have regard to:

- (a) the purpose of the applicable zone;
- (b) any relevant local area objective for the applicable zone;
- (c) the purpose of any applicable code;
- (d) the purpose of any applicable specific area plan;
- (e) any relevant local area objective for any applicable specific area plan;

...but in the case of exercise of discretion, only insofar as each such matter is relevant to the particular discretion being exercised.

4. Clause 6.8.1 of the SPPs outlines the scope of discretionary use to be:

- (a) the use is within a Use Class specified in the applicable Use Table as being a use which is Discretionary;
- (b) the use .... relies on a Performance Criterion to demonstrate compliance with an applicable standard; or
- (c) (the use) is Discretionary under any other provision of the planning scheme.

5. Clause 7.1.3 of the SPPs provides that when assessing changes to an existing non-conforming use under sub-clauses 7.1.1 and 7.1.2 (requiring discretionary assessment), a planning authority must have regard to any relevant LAOs.
6. The SPPs provide no guidance on LAO preparation.
7. The following guidelines have been prepared to assist with the drafting and compliance review of LAOs:
  - (a) The advice in Practice Note 8 must be followed, and in addition it is expected that the supporting report will provide a rationale for the inclusion of an LAO. This should include whether the LAO is based on the council's strategic plan, strategic directions endorsed by the council, a documented local area study, a report on the outcome of a community consultation, etc;
  - (b) LAOs must principally operate in relation to discretionary use decisions and as such their primary content should focus on use, not development, unless otherwise specified;
  - (c) LAOs must be consistent with the purpose of the zone or the SAP in which they are included;
  - (d) LAOs must be consistent with the uses and any accompanying qualifications contained in a Use Table;
  - (e) the area of application of an LAO must be identifiable through common distinctive characteristics;
  - (f) LAOs must not be applied to small individual sites;
  - (g) LAOs should address a general purpose, rather than specific and directory purpose;
  - (h) LAOs must not be specific, such that the statement might be characterised and applied as an additional performance criterion;
  - (i) LAOs must not address matters for which specific zone or code standards or provisions are available; and
  - (j) LAOs must not apply to the entire area of a new PPZ or SAP.
8. It is acknowledged that LAOs may be included as a criterion in development standards in PPZs or SAPs, however that does not change the scope or focus of what may be included in an LAO.