

HIGHLANDS COUNCIL RESPONSE TO PUBLIC COMMENTS ON THE *DRAFT RMP ADDENDUM 2019-2- PLAN CONFORMANCE PROCEDURES*

Summary of Recommendations

The Highlands Act requires the Highlands Council to review and update the Highlands Regional Master Plan (RMP) at least once every six years, after public hearings. The Act contemplates that amendments to the RMP will arise principally out of this six-year reexamination. The draft Plan Conformance Procedures (Procedures) sets forth the process the Highlands Council will follow to consider municipal and county petitions for Plan Conformance.

The Highlands Council conducted six public hearings on the draft Procedures. Public notice of the hearings was posted on the Council's website and printed in the Council's newspapers of record. The Council heard comments from interested members of the public on the draft Procedures. The Council has also considered all written comments submitted during the 60-day public comment period, which ran through May 28, 2019. An audio recording of the public hearings and copies of the written comments submitted by the public are available on the Council's website at: www.nj.gov/njhighlands/master/amendments.

Based on public comments, the Council staff recommends the following changes to the draft Procedures:

- Extend the minimum notice requirements for plan conformance petitions to 30 days.
- Expansion of the noticing requirements for Plan Conformance petitions before the Highlands Council to include the Highlands Council website, newspapers of record, and, where involving a local government, in accordance with that local government's policies for public notice.
- Clarification of the reimbursement provision (Section IV-B(d)) for municipalities that withdraw from Plan Conformance to recognize that any financial or other assistance received by a jurisdiction and deemed consistent by the Highlands Council shall remain the property of the jurisdiction.

A detailed response to public comments is set forth below:

Summary of Public Comments and Highlands Council Responses

1. COMMENT: Several commenters stated that the 10-day comment period for Plan Conformance petitions is insufficient.

RESPONSE: The Plan Conformance Procedures have been revised to reflect a 30-day comment period.

2. COMMENT: Several commenters stated that the Council should explore posting notice of proposals in more locations than on the Council's website, such as municipal websites, print media, and social media.

RESPONSE: The Highlands Council acknowledges and appreciates this comment. While posting on social media is not possible, the Plan Conformance Procedures have been updated to require the Council and petitioning local government unit to follow their respective standards for noticing as they would for any other action.

3. COMMENT: A commenter supported the Council's clarification of the definition of "full conformance" and establishment as the sole arbiter of conformance in the Planning Area. However, the commenter states, that the Council should clarify whether it is the adoption of the Land Use Ordinance or the "letter of certification" that a municipality has successfully conformed.

RESPONSE: A municipality which has successfully petitioned the Highlands Council for Plan Conformance and has been approved with conditions must adopt land use ordinance amendments consistent with the RMP. After review by the Highlands Council, the municipality will receive written certification that said land use ordinance amendments are consistent with the RMP. The municipality is considered conforming as of the effective date of said land use ordinance amendment(s). The effective date of the land use ordinance amendment(s) shall be in accordance with the Municipal Land Use Law (N.J.S.A. 40:55-D).

4. COMMENT: Several commenters stated that the provision contained within the Procedures that requires municipalities to reimburse the Council and the State if the jurisdiction is deemed not in conformance may discourage municipalities from entering the Plan Conformance process.

RESPONSE: The language in section IV-B(d) has been revised to clarify that the Highlands Council will only require reimbursement in the event grant monies are used for a purpose

not consistent with the Highlands Act and Regional Master Plan. Any expenditures for completed work products by a jurisdiction and approved by the Highlands Council will not require reimbursement to the Council or the State upon change in Conformance status.

5. COMMENT: A commenter supported the clarification of the “legal shield” triggers as a benefit of Plan Conformance and suggested that the “legal shield” be extended to cases which a municipality’s conformance status is challenged by any party, including another state agency.

RESPONSE: The specific circumstances under which the “legal shield” is triggered, that is, that the Council is required to provide legal representation to local government units, is spelled out in Section 22 of the Highlands Act, N.J.S.A. 13:20-20.

6. COMMENT: A commenter suggested that the Plan Conformance Procedures include a component regarding climate change adaptation and mitigation strategies as well as energy infrastructure.

RESPONSE: The Regional Master Plan does not include a section on climate change. While the Council acknowledges and appreciates the comment, it would be inappropriate to require a jurisdiction to undertake a planning effort for which the Council has not established goals, policies, and objectives. However, the Monitoring Program Recommendation Report recommends that the Council review the effects of climate change on the Region and determine what authority if any it has to address it. Should the RMP be amended to include a section on climate change, appropriate modifications to these procedures would be made to require conforming municipalities to address it, consistent with the goals and policies of the RMP.

7. COMMENT: A commenter stated that counties often play a significant role in open space planning, preservation, and recreation, as well as historic preservation, and suggested that counties, as part of Plan Conformance, could make significant contributions to the identification and protection of regional Highlands Scenic Resources, including bridges.

RESPONSE: The Highlands Council acknowledges this comment. Counties may undertake, as a component of Plan Conformance, scenic, historic, open space and recreation, and preservation studies funded as a part of their implementation grant.