



# **PLANNING APPLICATIONS**

**General information for lodging a planning application**

# The Development Approval Process

This information sheet describes the process involved in preparing and submitting an application for development and how the Huon Valley Council goes about assessment of that application.

Planning Permits are required for any use and development that is not considered exempt, 'NPR' (no planning permit required) or prohibited in accordance with the applicable Planning Scheme. You may require a planning permit from Council prior to undertaking one of the following:

- Building works/modification including additions
- Change of use of a building (e.g. from a residence to a B&B)
- Land clearing
- Excavation and/or placement of fill
- Erecting signage
- Make other modifications to a building or land

This process allows Council to assess a proposal against current regulations to ensure that development fits within the desired character of the area; that neighbour's rights such as privacy are protected; and no environmental harm is caused to the environment.

Development approval forms the first of 2-3 separate consents. The planning permit process is typically the first of several other approvals that you will require. For instance, you will require a Building Permit for most construction works. You may also require other approvals such as a Special Plumbing Permit for on-site wastewater disposal or approval from Council or other organisations to construct vehicular access or connect your land to reticulated services. You must not commence construction or change of use until all necessary approvals are in place.

It is important to receive a planning permit prior to proceeding with building and other approval processes, particularly in terms of engaging consultants to certify engineering and building plans as the planning permit could require modifications to the building design and additional consulting costs.

Council's Customer Service Officers are the first port of call for enquiries relating to planning applications and can advise you of whether you will need to lodge a planning application if you are in doubt. If your proposal is of a commercial nature, please contact Council's Economic Development Unit for this advice.

## The assessment process

Any application is assessed against the planning scheme and in accordance with the *Land Use Planning and Approvals Act 1993* (LUPAA). The LUPAA provides a maximum time period of 42 days for Council to determine an application. However, within 21 days Council can issue a formal request for additional information that may be required to determine a discretionary application and 28 days for a permitted application. An application and this request will stop the 28 and 42 day timeframe. Most applications are determined by Council officers under delegation from Council. However, if one or more representations are received an application will be determined by a meeting of Council and this may result in delay.

## How a planning scheme operates

A Planning Scheme will specify that a particular proposal has either a No Permit Required (NPR), permitted, discretionary or prohibited status. This status is set by the table of uses or in other provisions (for instance, an application that is permitted in the table of use will become discretionary or prohibited if the design does not comply with development standards such as boundary setbacks). The Table of Use and Development is situated towards the rear of each Planning Scheme and determines which type of use and development are classified to be NPR, Permitted, Discretionary or Prohibited. A table is provided within each zone which details the status of a particular development type. If the use or development type is not listed with the table

then it is automatically a prohibited use. A comprehensive list of general exemptions is provided under Part 5 and Part 6 of the Planning Scheme.

The five classification types: Exempt, NPR (no planning permit required), Permitted, Discretionary and Prohibited are discussed as follows:

***Exempt:***

The Planning Scheme lists the types of use and development that are exempt from requirement planning approval under Part 5 and Part 6 of the Planning Scheme. It is however noted that despite an exempt status, building and plumbing approvals may still be required from Council.

Any use not listed as exempt will require assessment against the Planning Scheme to determine if the development is classified as NPR (no planning permit required), Permitted, Discretionary or Prohibited, which are described below.

***NPR (No Planning Permit Required):***

An NPR use or development means that the proposed use or development complies with the relevant provisions of the Planning Scheme (including development standards and schedules) and therefore does not require a Planning Permit. Generally, the types of applications that are considered NPR use or developments are dwellings in the residential zones and agricultural activities in rural areas.

***Permitted (no public notification):***

A Permitted use or development means that an application must be lodged with Council for a Planning Permit and ultimately Council must approve the application providing that all the relevant provisions of the Planning Scheme are complied with. A permitted proposal means that Council must grant approval but may impose relevant conditions on the permit.

***Discretionary (public notification required):***

A Discretionary use or development requires a planning application to be lodged with Council. The application can either be approved with or without conditions or alternatively refused by Council. A discretionary proposal requires a 14 day public notification period during which a person may make a representation to Council in support or opposition of your proposal. The advertising period also requires Council to place an advertisement in the Mercury Newspaper, a sign erected on the property boundary and letters sent to the adjoining property owners. A discretionary proposal may be approved or refused based on the merits of the application and any decision may be appealed (see [www.rmpat.tas.gov.au](http://www.rmpat.tas.gov.au)).

***Prohibited (Council must refuse the application):***

A prohibited proposal means that Council cannot grant approval as the particular use or development is stipulated as being a Prohibited development within the respective zone. Applications can also become prohibited if certain provisions of the Planning Scheme are not complied with. In this scenario, you may make an application to amend the planning scheme to allow your application and you are strongly encouraged to engage a planning consultant to prepare any application.

## **Assessment timeframes**

Once a planning application is lodged with Council, and the application is considered valid (i.e. the relevant planning application fees have been paid, the planning application form is signed and dated and the relevant information and plans are submitted with the application), Council has 42 days to make a determination on the application (6 weeks) if it is discretionary and 28 days if it is permitted.

Council may request additional information within 21 days of a valid application being received. Additional information is requested if it is apparent that the application is deficient and not enough information is provided to adequately assess the proposal against the applicable planning scheme provisions. If additional information is requested, the 28 day or 42 day assessment period does not run while the request for

additional information has not been answered to the satisfaction of Council.

If the application is a Discretionary application, the advertising process is also undertaken within the 42 days.

## **Representations**

Should a representation be received objecting to the development during the public notification phase, the application will be required to be considered at the next available Council meeting (Council meetings are scheduled once a month). At the Council meeting the Planning Officer will table a report and recommendation for the Councillors to consider in the deliberation of the application. The Councillors can either adopt or modify the Planning Officer's recommendation or propose their own recommendation.

On occasions, it is not possible for Council to make a determination on a planning application within 42 days and as such Council is required to request an extension of time from the Applicant. This extension of time request is generally negotiated with the Applicant and must be signed and returned to Council prior to the 42 day lapse date.

## **Right of appeal**

An applicant and a representor has the right to appeal to the Resource Management and Planning Appeal Tribunal (RMPAT) against a decision made by Council, or a condition attached to an approval. Such an appeal may be lodged within the Tribunal within 14 days of the application decision being made.

*Resource Management and Planning Appeal Tribunal*  
Level 6, 144 Macquarie St Hobart  
(03) 6165 6794

## **Referrals**

Some applications are required to be referred to and assessed by further statutory bodies and regulatory agencies. Such examples include:

- Development involving impacts upon threatened native vegetation communities or on the coast will be referred to the Policy and Conservation Advice Branch of DPIPW.
- Development adjacent to a State Road (such as a Highway) must be referred to the Department of State Growth whom may impose conditions of approval on any permit granted by the Council. A separate permit will also be required to be obtained from the Department to carry out any works within the state road reservation.
- Any development requiring new sewer or water connections (such as multi-unit developments, commercial developments and subdivisions) must be referred to TasWater who may impose conditions of approval relating to servicing infrastructure and headworks charges.

## **Penalties for undertaking development without approval**

Under the *Land Use Planning and Approvals Act 1993* a fine may apply for undertaking work without development approval.

# Information Requirements for Planning Approval

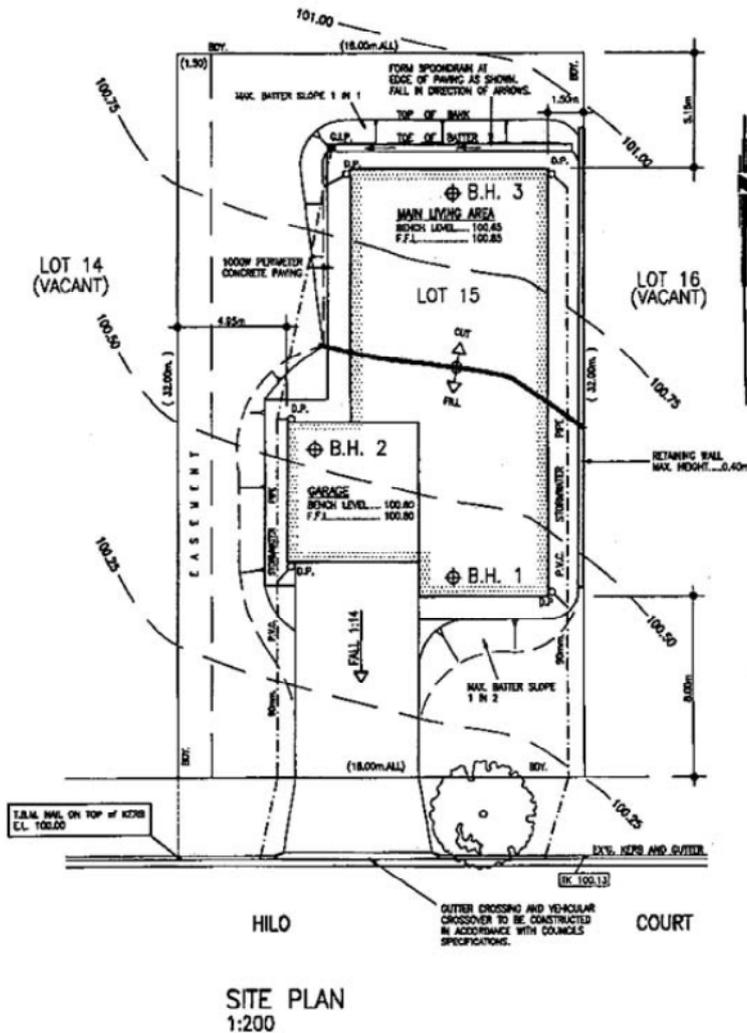
Council has various application forms which are available on its website. **Each application form includes a checklist of information that may be required.** At a minimum, each planning application must include:

- An application form;
- The payment of all prescribed fees (which are available on Council's website);
- A written explanation of the proposal including justification for the particular design response;
- A copy of the Certificate of Title;
- A site plan (1:100 or 1:200 preferred) showing all existing and proposed buildings, dimensioned setbacks, cut and fill, vegetation to be retained or removed, car parking and vehicular access including sight distance; and
- Floor plans and building elevations.

Any commercial application must also include details of the nature of the business, the number of staff, operating hours, equipment used and expected noise levels, expected waste and proposed disposal, location and design of signage and expected delivery vehicle requirements.

If your land is not connected to sewer, you may need to provide a Site and Soil Evaluation and System Design prepared by a suitably qualified person to show that wastewater can be disposed of on site.

Council may also require reports from suitably qualified persons to assess risks from land hazards, such as bushfire, or impacts of the proposal, for example as a traffic impact assessment. The application form includes a checklist of potential reports that may be required. You may wish to review the other Information Sheets on Council's website as these provide information of whether a report may be required.



### MANDATORY SITE PLAN DETAILS

- North point and scale (minimum of 1:200)
- Boundaries and dimensions of the site and relevant easements
- Location of all existing buildings and structures, noting what is to be demolished and what is to be retained
- Location of all significant trees
- Details of site drainage and roof / stormwater disposal
- Existing (if applicable) and proposed vehicular access point from adjoining roads onto the land
- Location of car parking and access for occupants and visitors
- Type, height and construction of boundary fencing and retaining walls
- Location of existing infrastructure including service lines, side entry pits and bus stops
- Undisturbed contours of the land
- Location of any proposed signage

Figure 1: An example of a Site Plan provided by the Department of Planning and Local Government (SA)

### If you don't own the land

If you do not own the land you may still make a planning application but must first notify the owner of your intention to do so. If, however, your proposal is located on land owned or administered by the Crown or Council then the consent of the Crown or Council is first required. If you require Council's General Manager to sign the application you must write to the General Manager and include all detail of the planning application that you intend to lodge.

### Other considerations

- Additional plans and details may be required depending on the nature of the development proposed.
- It is not possible to provide 'in principle' approval prior to lodging a planning application.
- If you intend to construct other buildings on your land in the future you may wish to include those in a current application to avoid the cost and time of making a different application in the future. Provided that a large component of the total approval is substantially commenced within two years of approval, you will not require a new approval to continue with the remainder at any time.
- All planning approvals for development applications must be substantially commenced within 2 years of the permit approval date otherwise the permit will lapse. If those approved works have been substantially commenced during the initial 2 year period but are not completed within that timeframe, it is possible to seek an extension of time from Council for the works to be completed by. However, there needs to be sufficient evidence of those works having been substantially commenced, for example, infrastructure and other works carried out on the property. Applicants seeking an extension of time must ensure they make their application well before the expiry of the initial 2 year permit period so this leaves sufficient time for the Council to then consider their application and make a decision

either granting or refusing the application before the permit expiry date.

- It is often helpful to keep your neighbours informed of your proposal as this may allow potential issues to be addressed without incurring unnecessary cost or delay.
- It is an offence to undertake use or development (including land clearing and site excavation) without a planning application. Council's compliance officers investigate unlawful buildings and use and failure to comply can result in financial penalties.

## **How do I obtain further information?**

For more information regarding the planning approval process, please don't hesitate to contact Council's Customer Service Office on (03) 6264 0300. Alternatively, emails can be forward to [hvc@huonvalley.tas.gov.au](mailto:hvc@huonvalley.tas.gov.au).