

Administrative Guidelines

Title: **General Manager consent to an application for a planning permit – section 52 *Land Use Planning and Approvals Act 1993***

1. When is General Manager consent required?

The *Land Use Planning Approvals Act 1993* (the **Act**) requires the General Manager to consent to the lodgement of applications for a permit on land owned or administered by the City of Hobart.

Section 52(1B) of the Act is as follows:

(1B) If land in respect of which an application for a permit is required is Crown land, within the meaning of the Crown Lands Act 1976, is owned by a council or is administered or owned by the Crown or a council and a planning scheme does not provide otherwise, the application must –

(a) be signed by the Minister of the Crown responsible for the administration of the land or by the general manager of the council; and

(b) be accompanied by the written permission of that Minister or general manager to the making of the application.

Therefore, any application proposing development of land owned or administered by the City of Hobart will require the written permission of the General Manager in order for the application to be validly lodged with the Planning Authority.

The statutory power under section 52 of the Act is vested in the General Manager alone. While the General Manager is entitled to consult with others, including the Council, he cannot lawfully be dictated as to the grant or refusal to grant consent.

2. How do I seek General Manager consent?

Requests must be made in writing, addressed to the Office of the General Manager, and sent to coh@hobartcity.com.au.

3. What is required to seek General Manager consent?

Sufficient information must be provided to the General Manager to enable the General Manager to consider the impact of the proposed use and/or development on land owned or administered by the Council.

All relevant documentation must be provided including the development proposal, specifications, drawings and plans and any relevant supporting documents including specialist reports.

All applications for General Manager consent must include the following information:

- A detailed description of the proposed use and development which is proposed to occur on land owned or administered by the Council;
- A site plan which accurately details (a) the location of the land owned or administered by the Council and (b) the location of the proposed use and/or development;
- All information required by clause 8.1 of the *Hobart Interim Planning Scheme 2015* or clause 9 of the *Sullivans Cove Planning Scheme 1997*.

4. What will the General Manager consider?

The statutory scheme does not set out matters which the General Manager may take into account in his decision making. The range of relevant considerations is determined having regard to the particular circumstances of each application.

Examples of what the General Manager may take into consideration include, but is not limited to:

- Whether the type of development proposed is one which may be inconsistent with existing Council policies or strategies relevant to the land;
- Whether the type of development proposed is one which may result in the Council not being able to perform one or more of its statutory functions in relation to the land;
- Whether the type of development proposed is one which may result in the Council incurring expenditure in relation to the land (such as relocating assets or services);
- Whether the proposed occupation of Council land by the proposed development may reduce public access to the land;
- Whether the occupation of the land by the proposed developer is inconsistent with any right of occupation of that land held by another person;
- The type of occupation of Council land that is proposed;
- The significance or public importance of the land which is the subject of the development proposal;
- Whether the proposed use and development would be inconsistent with the proper discharge of Council's statutory function.

Consent under section 52 of the Act is limited to the giving of permission by the land owner or administering authority to the lodgement of an application. It does not imply anything about the eventual determination of the application nor constitute a right to access the land to carry out the use or development.

The General Manager cannot consider the merits of the proposed development and use. That power is vested in the planning authority who are required to determine the application in accordance with the relevant planning scheme.

5. Can the General Manager seek advice from third parties?

The General Manager is entitled to seek additional information and/or opinions from third parties. This will depend on the circumstances and will be largely determined by the nature of the development proposed.

Where a development proposal concerns the construction of infrastructure over Council land, the General Manager may seek an opinion or report from an expert body regarding the impact on Council assets, or Council's capacity to deliver services on that land.

Where the application is of significant public interest or relates to land of public importance, the General Manager may seek the opinion of the Aldermen as representatives of the public interest to better understand the proposal's impact.

The General Manager may also seek information from multiple sources on different elements of the proposal as required.

It is important to note that the information requested by the General Manager is advisory only and is not determinative of the General Manager's decision.

6. What if consent is granted?

If the General Manager grants permission pursuant to section 52 of Act for an application to be made, the applicant will receive a letter containing written permission and a copy of the application documents endorsed with the General Manager's consent. If an application is made for a permit, the written permission and endorsed plans must be submitted as part of the application.

7. What if a planning permit is granted?

The granting of consent under section 52 of the Act to the making of an application is not approval to undertake any works and does not authorise the owner, developer or their agents any right to enter, access or conduct works on any Council owned or administered land.

If planning approval is granted by the planning authority, separate and distinct consent from the Council to undertake the proposed use and development on Council owned or administered land is required before any works commence.

It is strongly recommended you contact the Council to discuss the works proposed on Council owned or administered land prior to requesting consent under section 52 of the Act. Council officers are able to provide preliminary advice on the matters relevant to the General Manager's consideration of the application. Early engagement is recommended for all applications.

8. How long will it take for the General Manager to make a decision?

The request for consent will be dealt with as expeditiously as possible however there is no statutory timeframe for the General Manager to make a decision.