

Planning Directive No. 7

Permits for Temporary Housing

This Planning Directive has been issued by the Minister for Planning under section 13(1)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act) and came into effect on 16 September 2020¹.

¹ References to provisions of the *Land Use Planning and Approvals Act 1993* (the Act) are references to the **former provisions** of the Act as defined in Schedule 6 – Savings and transitional provisions of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The **former provisions** apply to a planning scheme that was in force prior to the **commencement day** of the *Land Use Planning and Approvals Amendment (Tasmanian Planning Scheme Act) 2015*. The **commencement day** was 17 December 2015.

1.0 Citation

This planning directive may be cited as Planning Directive No. 7 – Permits for Temporary Housing.

2.0 Application

2.1 This planning directive applies to the following planning schemes:

- (a) interim planning schemes that have been declared or made under the *Land Use Planning and Approvals Act 1993* (the Act); and
- (b) the *Sullivans Cove Planning Scheme 1997*.

3.0 Interpretation

3.1 In this planning directive, unless the contrary intention appears:

- (a) the definitions under clause 4.0 of the applicable interim planning schemes or Part G of the *Sullivans Cove Planning Scheme* apply; and
- (b) the following definitions apply:

“accredited person” means as defined in the Act

“bushfire-prone area” means:

- (a) land that is within the boundary of a bushfire-prone area shown on an overlay on a planning scheme map; or
- (b) where there is no overlay on a planning scheme map, land that is within 100m of an area of bushfire-prone vegetation equal or greater than 1ha.

“bushfire-prone vegetation” means contiguous vegetation including grasses and shrubs but not including maintained lawns, parks and gardens, nature strips, plant nurseries, golf courses, vineyards, orchards or vegetation on land used for horticultural purposes.

“bushfire protection measures” means the measures that might be used to reduce the risk of bushfire attack and the threat to life and property in the event of bushfire.

“Director of Housing” means the Director as defined in the *Homes Act 1935*.

“eligible persons” means as defined in the *Homes Act 1935*.

“housing support provider” means as defined in the *Homes Act 1935*.

“TFS” means Tasmanian Fire Service

“temporary housing” means residential use or development for a period of not more than 12 months commencing from the date on which an occupancy permit or temporary occupancy permit is issued in accordance with Part 17 of the *Building Act 2016*.

“tolerable risk” means the lowest level of likely risk from the relevant hazard:

- (a) to secure the benefits of a use or development in a relevant hazard area; and
- (b) which can be managed through:
 - (i) routine regulatory measures; or
 - (ii) by specific hazard management measures for the intended life of each use or development.

4.0 Effect of the planning directive

4.1 For all interim planning schemes to which this planning directive applies must have the effect that:

- (a) Use and development for temporary housing of eligible persons within an existing building is Permitted, and a permit must be granted, if:
 - (i) on land within:
 - a. a General Residential Zone, Inner Residential Zone, Urban Mixed Use Zone, Central Business Zone, General Business Zone, Local Business Zone, Community Purpose Zone, Recreation Zone, or Open Space Zone under an interim planning scheme; or
 - b. the Commercial Zone under the *Hobart Interim Planning Scheme 2015*;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) the development is limited to minor building works or structures necessary for the use of the existing building for temporary housing;
 - (iv) a code relating to heritage does not apply, or if the code does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a heritage place, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
 - b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a listed place or precinct of archaeological significance; and
 - (v) the following does not apply:
 - a. Bushfire-Prone Areas Code;
 - b. a code relating to flooding, inundation, or landslip hazards;
 - c. a code relating to potentially contaminated land; or

- d. a code relating to significant trees.
- (b) Use and development for temporary housing of eligible persons within demountable, relocatable, or other forms of non-permanent buildings is Permitted, and a permit must be granted, if:
- (i) on land within:
 - a. a General Residential Zone, Inner Residential Zone, Urban Mixed Use Zone, Central Business Zone, General Business Zone, Local Business Zone, Community Purpose Zone, Recreation Zone, or Open Space Zone under an interim planning scheme, or
 - b. the Commercial Zone under the *Hobart Interim Planning Scheme 2015*;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) located on the same site, or a site adjoining, an existing residential facility that is funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iv) the building height is not more than 8m above existing ground level; and
 - (v) the buildings have a setback from an adjoining property of not less than half the wall height of the building if the adjoining property is within a General Residential Zone, Low Density Residential Zone, or Inner Residential Zone, excluding:
 - a. an adjoining property to which subclause 4.1(b)(iii) applies; and
 - b. the portion of the wall that is not more than 3m above existing ground level;
 - (vi) a code relating to heritage does not apply, or if the code does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a heritage place, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
 - b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a listed area of archaeological significance; and
 - (vii) the following does not apply:
 - a. Bushfire-Prone Areas Code;
 - b. a code relating to flooding, inundation, or landslip hazards;

- c. a code relating to potentially contaminated land;
 - d. a code relating to significant trees;
 - e. buildings are located on land within an inner protection area, or registered electricity easement, as defined in an Electricity Transmission Infrastructure Protection Code.
- (c) Unless subclause 4.1(a) or 4.1(b) applies, use or development for temporary housing of eligible persons within an existing building, or in a demountable, relocatable or other non-permanent building, is Discretionary, if funded or operated by, or on behalf of, the Director of Housing or a housing support provider.
- (d) In determining an application under subclause 4.1(c), a planning authority must have regard to:
- (i) the proximity of the temporary housing to existing residential facilities and social support services that are funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (ii) the availability of public transport and capacity of road infrastructure and utility services to the site;
 - (iii) the purpose and provisions of the applicable zone and any applicable codes; and
 - (iv) the potential for land use conflict with other use or development on adjoining properties and any measures available to manage or mitigate such conflict.
- (e) Temporary housing must only be located in a bushfire-prone area, if accompanied by an emergency management strategy, endorsed by the TFS or accredited person, that provides for mitigation measures to achieve and maintain a level of tolerable risk that is specifically developed to address the characteristics, nature and scale of the use considering:
- (i) the nature of the bushfire-prone vegetation including the type, fuel load, structure and flammability;
 - (ii) the ability of occupants of the temporary housing to:
 - a. protect themselves and defend property from bushfire attack;
 - b. evacuate in an emergency;
 - c. understand and respond to instructions in the event of a bushfire; and
 - (iii) any bushfire protection measures available to reduce risk to emergency service personnel.

4.2 For the *Sullivans Cove Planning Scheme 1997* to which this planning directive applies must have the effect that:

- (a) Use and development is Permitted, and a permit must be granted, for temporary housing of eligible persons within an existing building if:
 - (i) on land within Activity Area 1.0 Inner City Residential (Wapping) or Activity Area 2.0 Sullivans Cove Mixed Use;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) the development is limited to minor building works or structures necessary for the use of the existing building for temporary housing;
 - (iv) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or if the schedule does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a place of cultural significance, unless required for compliance with fire regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or
 - b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a place of archaeological sensitivity; and
 - (v) Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.
- (b) Use and development for the temporary housing of eligible persons within demountable, relocatable, or other non-permanent buildings is Permitted, and a permit must be granted, if:
 - (i) on land within Activity Area 1.0 Inner City Residential (Wapping) or Activity Area 2.0 Sullivans Cove Mixed Use;
 - (ii) funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iii) located on the same site, or a site adjoining, an existing residential facility that is funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (iv) building height is not more than 8m above existing ground level;
 - (v) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or if the schedule does apply, the use or development does not involve:
 - a. any external alteration or modification to a building that forms part of a place of cultural significance, unless required for compliance with fire

regulation under the *Building Code of Australia* and is not visible from any road or public open space adjoining the site; or

- b. excavation of land to a depth of more than 0.3m and more than 20m² in area on a site within a place of archaeological sensitivity; and
- (vi) Schedule 8 – Environmental Management does not apply in relation to land contamination, or if the schedule does apply, the use or development is Permitted under that schedule.
- (c) Unless subclause 4.2(a) or 4.2(b) applies, use or development for temporary housing of eligible persons within an existing building, or in a demountable, relocatable or other non-permanent building, is Discretionary, if funded or operated by, or on behalf of, the Director of Housing or a housing support provider.
- (d) In determining an application under subclause 4.2(c), a planning authority must have regard to:
 - (i) the proximity of the temporary housing to existing residential facilities and social support services that are funded or operated by, or on behalf of, the Director of Housing or a housing support provider;
 - (ii) the availability of public transport and capacity of road infrastructure and utility services to the site;
 - (iii) the purpose and provisions of the applicable Activity Area and any applicable Schedule; and
 - (iv) the potential for land use conflict with other use or development of adjoining properties and any measures available to manage or mitigate such conflict.

4.3 A permit granted under this planning directive must be subject to a condition to require that not more than 6 months after the date on which the permit lapses, all traces of any works, buildings, plant or materials introduced and used for the purposes temporary housing must be removed from the site to the satisfaction of the planning authority, unless:

- (a) a new permit for temporary housing has been granted; or
- (b) such works, buildings, plant or materials are to be used for a use or development for which a permit has been granted, or are exempt from requiring a permit.

4.4 Additional permits for temporary housing issued under this planning directive must not cause the approval of temporary housing for a period longer than 3 years commencing from the date on which the initial occupancy permit, or temporary occupancy permit, is issued in accordance with Part 17 of the *Building Act 2016*.

5.0 Application of standards and planning requirements

- 5.1** Subclauses 4.1(a) and 4.1(b) do not apply to use or development that has the status of No Permit Required under the applicable planning scheme.
- 5.2** Subclauses 4.1(c) and 4.2(c) only applies to use or development that has the status of Prohibited under the applicable planning scheme.
- 5.3** No other provision or requirement in a planning scheme to which this planning directive applies is applicable to a proposal under subclauses 4.1(a), 4.1(b), 4.2(a) or 4.2(b).
- 5.4** If any provision or requirement in a planning scheme to which this planning directive applies that is directly or indirectly inconsistent with the provisions or requirements specified in subclauses 4.1(c) or 4.2(c), that provision or requirement does not apply to the extent of the inconsistency.

6.0 Commencement

This Planning Directive takes effect on 16 September 2020.