



Planning Appeals

The details provided below are for information purposes only.

It is strongly recommended that advice is sought from Council's Planning staff in regard to each particular proposal.

If your planning permit application is refused or carries conditions which you believe are unreasonable, you may appeal to the Resource Management and Planning Appeal Tribunal.

The same appeal provisions are available to you if you wish to object to the Council decision to approve a permit. However, if you are appealing against such a decision, you must have made a prior representation to Council concerning that application.

You have 14 days from the day on which notice of the Council's decision is served to lodge your appeal. If you lodge an appeal you are required to attend hearings.

Once the appeal is lodged Council has no further jurisdiction over the permit application and will refer any matters relating to it to the Tribunal.

Planning Appeals Checklist:

- Completed 'notice of appeal' form - available online at www.rmpat.tas.gov.au/forms;
- Name and address and signature of person lodging the notice of appeal
- Name of Planning Authority (Devonport City Council)
- Planning application number
- Date on which notice of decision was received
- Nature of decision
- Details of proposed development or use
- Grounds of appeal (summary), and
- Fees payable upon lodgement of form with Tribunal.

Appeals must be lodged with:

Resource Management and Planning Appeal Tribunal

GPO Box 2036, Hobart, Tasmania 7001

144-148 Macquarie Street, Hobart, 7000

Phone: (03) 6165 6794

Email: rmpat@justice.tas.gov.au

Appeal hearings are conducted in public.

Planning Appeal Forms are available from the Tribunal and a fee is payable when making an appeal. Planning Officers can assist you with further information.





DEVONPORT CITY COUNCIL

ABN: 47 611 446 016

PO Box 604 Devonport TAS 7310 - 137 Rooke St Devonport

Telephone 03 6424 0511

Email council@devonport.tas.gov.au Web www.devonport.tas.gov.au

Planning Appeals

APPEALS PROCESS

WHO HEARS APPEALS AGAINST A COUNCIL DECISION ON A PLANNING PERMIT APPLICATION?

Planning appeals are heard by the Resource Management and Planning Appeal Tribunal (RMPAT). The legislation the Tribunal operates under is the *Resource Management and Planning Appeal Tribunal Act 1993*. The Tribunal is completely independent of the Council and determine disputes having regard to the relevant law and the evidence presented by parties to those proceedings.

CONTACT DETAILS

Resource Management and Planning Appeal Tribunal

Phone: 03 6165 6794

Postal address: GPO Box 1311, Hobart Tas 7001

Street address: 38 Barrack Street, Hobart Tas 7000

Email: rmpat@justice.tas.gov.au

Website: www.rmpat.tas.gov.au

WHO MAY APPEAL A COUNCIL DECISION ON A PLANNING PERMIT?

- **Applicant:** An applicant for a Planning Permit has the right to appeal against a decision made by Council for an approval or refusal of a Planning Permit, or a condition imposed on a Planning Permit within 14 days after notice of that decision is served on them.
- **Owner:** If the owner of the land is not the applicant and the Council grants a permit requiring that a planning agreement be entered into, the owner has a right of appeal within 14 days of notice of Council's decision to grant a Planning Permit.
- **Representer:** A person or relevant agency who has lodged an objection (representation) with Council during the 14 day advertising period for a discretionary planning permit application, may lodge an appeal within 14 days after notice of that decision is served on them.

In the case of Council refusing to grant a planning permit, there is no right for an objector to lodge an appeal.

If an appeal has been instituted by a person, any other person whose interests are affected by the decision appealed against may apply in writing to the Tribunal to be made a party to the appeal.

Note: The Planning Appeal Tribunal will not notify you directly if the applicant appeals. To find out whether the applicant has appealed, you may enquire by phoning the Planning Appeal Tribunal after the 14-day period or view the Public Notices section of *The Advocate Newspaper* on a Saturday which will state whether a Preliminary Hearing has been arranged.



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APPEAL RIGHTS DELAY THE COMING INTO EFFECT OF A PLANNING PERMIT

If there are no appeals against the granting of a permit, the permit takes effect at the end of 14 days from the day on which notice of the granting of the permit was served on the person who has a right of appeal.

Where an appeal is lodged against the Council's decision to grant a permit, the permit does not take effect until the appeal is decided or abandoned.

If the applicant is the only person with a right of appeal, and does not intend to exercise that right, and wants to start the use or development before the end of the 14-day period, they must notify the Council in writing of their intention to do so.

HOW DO I LODGE A PLANNING APPEAL?

A completed Notice of Appeal form is to be submitted to the Tribunal with the required fees. To seek direction on lodging an appeal go to the RMPAT website for practice directions and legislation. www.rmpat.tas.gov.au

For further information on the required form and fees required please go to: [RMPAT : Forms](#) and [RMPAT : Fees](#)

Note: The Tribunal staff may not provide legal advice. They may only provide procedural assistance. If you have questions about the merits of your case, or seeking help in how to conduct your case, the Tribunal has a list of professional people who offer a free initial consultation of 15 minutes over the telephone to persons referred to them by the Tribunal.

WHAT DOES THE PLANNING APPEAL PROCESS INVOLVE?

The appeal process commences with a Preliminary Hearing in which attendance is sought by all parties and where the following matters will be dealt with:

- Explains the appeal process;
- Ensures that parties taking part in the appeal have received or will receive the information they need;
- Grounds of appeal or statement of issues;
- Explores whether the appeal can be resolved through Alternate Dispute Resolution process – mediation, conciliation and neutral expert evaluation (mediation is to assist parties to negotiate an agreed outcome to an appeal rather than going to a full appeal hearing);
- Dates for full hearing if required;
- Preparation of evidence.



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If an agreement and final decision is not made through the preliminary conference or alternate dispute resolution a full hearing of the Tribunal is called where formal submissions and evidence by each party will be presented. After the full hearing the Tribunal endeavours to have a final decision on the appeal delivered to all parties within 28 days from the conclusion of the hearing. The decision of the Tribunal is legally binding.

A right of appeal from the Tribunal decision to the Supreme Court is available only on a question of law. The time for making an appeal to the Supreme Court is 28 days from the date of the final decision. The Tribunal is not a party to an appeal under the *Appeal Tribunal Act* and would not seek to be heard in relation to those proceedings.

COSTS AT THE END OF A PROCEEDING

At the end of legal proceedings the Tribunal must make an order regarding the costs that people incur as part of the appeal process. You should read Practice Direction 15 on the RMPAT website [200806-PRACTICE-DIRECTION-15.pdf \(rmpat.tas.gov.au\)](http://200806-PRACTICE-DIRECTION-15.pdf) regarding costs carefully and if necessary take advice.

Note: The Tribunal has a 90-day timeframe within which to hear and determine any appeal.

Appeal hearings are conducted in public.

Planning Appeal Forms are available from the Tribunal and a fee is payable when making an appeal.

Planning Officers can assist you with further information.

