

Interim Planning Directive No. 3

Permits for Temporary Housing

This Interim Planning Directive has been issued by the Minister for Planning under section 12A(2)(a) of the former provisions of the *Land Use Planning and Approvals Act 1993* (the Act) and came into effect on 4 September 2019¹.

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 Interim Planning Directive No. 3 – 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:

“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*.

“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*.

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 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 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 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 Bushfire-Prone Areas Code, or a code relating to flooding or inundation hazards, does not apply.
- (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 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 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 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

- (vii) the Bushfire-Prone Areas Code, or a code relating to flooding, inundation, or landslip hazards, does not apply.
 - (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) locating the temporary housing as close as possible 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 and capacity of infrastructure 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.
- 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; and
 - (iv) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or 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.

- (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; and
 - (v) Schedule 1 – Conservation of Cultural Heritage Values does not apply, or 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 place of archaeological sensitivity.
- (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) locating the temporary housing as close as possible 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 and capacity of infrastructure to the site;
 - (iv) the purpose and provisions of the applicable Activity Area and any applicable Schedule; and
 - (v) 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.

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) do not apply to use or development that has the status of No Permit Required or Permitted 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), 4.1(d), 4.2(c) or 4.2(d), that provision or requirement does not apply to the extent of the inconsistency.

6.0 Commencement

This Interim Planning Directive takes effect on 4 September 2019.