

# PART C – APPLICATION OF THE SCHEME

## 8 CONSIDERATION OF APPLICATIONS

### 8.1 Compliance with the Sullivans Cove Planning Scheme

No person or authority, shall undertake any use or development of land within the Planning Area, other than in accordance with the Land Use Planning and Approvals Act 1993 and the requirements of this Scheme.

### 8.2 Existing Uses

Existing use or development is protected within the parameters of s.20 of the Land Use Planning and Approvals Act 1993.

### 8.3 Non-Conforming Uses

8.3.1 The Planning Authority will encourage the gradual phasing out of non-conforming uses which do not accord with the strategic framework of the Scheme or the objectives of the Activity Area. Whilst doing so, a permit may be granted to use the land for a similar class of use (i.e. 'prohibited'), or one deemed by the Planning Authority to be of a lesser impact to the local environs.

8.3.2 A permit may be granted for the rebuilding, renovation or repair of the non-conforming use subject to the general development provisions of the Scheme and of the Activity Area being satisfied. In exceptional circumstances, a permit may be granted for the extension or expansion of the use.

8.3.3 In deciding to grant a permit for the extension or substitution of a non-conforming use, the Planning Authority must consider whether the use or development will impair the orderly development of the Activity Area or substantially damage the amenity of the immediate environs, by way of traffic movements, noise, loss of amenity of nearby residential areas or by other means considered inappropriate by the Planning Authority. The development must accord with the provisions of the Scheme.

### 8.4 Exemptions from Planning Approval

The following uses and development are 'exempt' from a permit under this Scheme:

- The painting of buildings, and structures not listed in the Conservation of Cultural Heritage Values Schedule, but excluding unpainted brick and stone external walls and structures.
- Maintenance of buildings or works not requiring external alteration of the appearance of the building or structure.
- The erection and maintenance of side and rear fences less than 2.1 metres in height on properties not listed in the Conservation of Cultural Heritage Values Schedule (this exemption does not apply on land between the building and front property boundaries).

These exemptions apply to all land within the Planning Area.

Other specific exemptions may apply, these are referred to in Parts D and E of this Scheme.

## **8.5 Temporary Permits**

The Planning Authority will not issue temporary permits for 'prohibited' uses.

## **8.6 Time Limits on Permits**

**8.6.1** The Planning Authority may attach a condition to a permit which specifies the period for which the permit is valid. This does not apply to development which is 'prohibited', except where such 'prohibited' development is approved under Clause 8.4 of this Scheme. Such permits may only be renewed by the submission of a new application.

**8.6.2** Pursuant to s.53(5) of the Land Use Planning and Approvals Act 1993, a permit will lapse after a period of two years from the date on which it was granted if the use or development in respect of which it was granted is not substantially commenced within that period.

# **9 APPLICATION REQUIREMENTS FOR ALL PLANNING APPLICATIONS WITHIN THE SULLIVANS COVE PLANNING AREA**

## **9.1 Use of Land**

All applications for the development of land must be accompanied by the following information, as appropriate:

- The purpose of the use and the types of activities which will be carried out.
- The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and dispatch of goods or materials, hours of operation and light spill, solar access and glare.
- The means of maintaining areas not required for immediate use.

## **9.2 Development of Land**

All applications for the development of land must be accompanied by the following information, as appropriate:

### ***Mandatory – all applications***

- A plan drawn to scale which shows:
  - The boundaries and dimensions of the site.
  - The layout of existing and proposed buildings or works on the site.
  - The footprint of buildings on adjacent blocks 5m into each boundary.
  - Relevant ground levels.
  - All driveway, car parking and loading areas.
  - Proposed landscape areas.
  - All external storage and waste treatment areas.
  - Areas not required for immediate use.
  - Adjoining roads.

- Elevation drawing to scale showing the colour and materials of all proposed building or works, samples of materials may also be requested.
- Plot ratio calculation.
- Details on existing and/or any proposed use of the land.

***Supplementary – applications where the extent of the building or works involves any or all of the following:***

- Buildings having a frontage to a primary or secondary space - full plans, elevations and representative sections drawn to scale showing a significant part of adjacent buildings.
- Buildings fronting primary spaces - through section drawn to scale showing the height relationship to the width of the space and buildings opposite.
- Night-light illumination - accurate elevation drawn to scale and details of means of illumination and the throw of proposed lights.
- Access and Parking - construction details of all drainage works, driveways, vehicle parking and loading areas.
- Landscaping - a plan drawn to scale of the landscape layout showing the tree and shrub specimens to be retained or planted and the details of soft or hard landscaping patterns and materials.
- Subdivision - information as required under the provisions of clause 27.5.
- Key Sites - information as required under the provisions of clause 31.5.
- Conservation of Places of Cultural Significance - information as required under the provisions of clause 22.4.3.
- 'Building or Works' on land not included in Table 1 - information as required under the provisions of clause 22.5.3.

## 10 DECISIONS

Before determining any application to use or develop land, the Planning Authority must consider, as appropriate:

- The strategic policies of Parts A and B.
- The objectives for the Activity Area.
- The effect that adjoining and nearby existing uses may have on the proposed use.
- The impacts of the proposed use or development on the heritage, urban and spatial character of the Activity Area.
- The impact of the proposed use or development on the port and port operations.
- The effect of traffic to be generated on local roads.
- The need for off street parking.
- The availability of, and connection to, services.
- The interim use of those parts of land not required for the proposed use.

## **11 PLANNING ENFORCEMENT**

### **11.1 Powers of the Planning Authority**

In accordance with, s.48 of the Land Use Planning and Approvals Act 1993, the Council must, within the ambit of its power, observe, and enforce the observance of this Planning Scheme in respect to all use and development undertaken within the planning area, whether by the authority or by any other persons.

## **12 REFERRAL OF PLANNING APPLICATIONS**

The Planning Authority may, in its consideration of an application for a permit, consult with or obtain the advice, opinion or recommendation of any person.