



The Guide to SUCCESSFUL PLANNING APPROVAL

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The Guide to Successful Planning Approval

Today, the stakes are high. Many developments are derailed by the delays, costs and distraction that come when the planning approval turns sour. The key to a painless approval, says Trevor Ludeman of Project Planning and Development, is an application that addresses all the requirements of the planning scheme and presents a solid justification for the development.

But this is complex territory, governed by a maze of state and municipal policies, strategic statements, zones, overlays and provisions. It's hardly surprising that savvy developers are increasingly enlisting expert help to produce applications that are attractive to council – generally headed by a town planning consultant. Here, Mr Ludeman explains the top 10 reasons why town planning consultants smooth the path to a planning permit.

1 – Just because a permit can be granted does not mean it will be granted

“Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.”

- from Clause 65 of all planning schemes in Victoria.

Your local municipality has the discretion to approve and refuse applications. The planning officer's duty is not to the applicant or objector, but to provide a balanced and unbiased assessment of how the development addresses the provisions of the planning scheme. The onus is on you, the applicant, to show why approval is justified. A town planning consultant will prepare a report doing exactly that to accompany your application.

2 – Uncover the rules that apply to your site

The first step – even before the architect or designer starts work – is to uncover which strategies, policies and zone and overlay controls apply to your site and their requirements.

3 – Understand what needs to be done

The design is often affected by planning requirements covering everything from the economy to the environment.

Your consultant will explain how the design needs to accommodate mandatory building heights and setbacks, environmental requirements, car parking ratios and perhaps a qualitative assessment of neighbourhood character.

The town planning consultant may also recommend other experts to ensure your application overcomes issues as diverse as heritage, traffic, infrastructure or vegetation.

4 – Project management to keep it simple

If the requirements that apply to your site are complex, a town planning consultant will act as project manager. In this role, your consultant will identify whether other experts are needed, prepare briefs, appoint and liaise with them to develop your design's answers to planning requirements.

Case study: Burnham Beeches -How Seven Experts Transformed a Grand Old Lady

The art deco Norris mansion and the former accommodation wings (circa 1980s) had not been used as a motel since 1992. When the Burnham Beeches project sought planning approval to make the mansion a motel once more, separate heritage approval was needed because it was also listed under the Heritage Act.

A group of consultants was coordinated by Project Planning and Development to manage:

- Heritage – conservation management plan required by Heritage Victoria
- Landscape – landscape management plan for the existing heritage-listed gardens
- Traffic – new parking areas required (240 spaces), access, traffic management plan and new intersection design with Sherbrooke Road.
- Infrastructure – new drainage infrastructure to existing buildings and car parking areas.

- Environment – design and location of new effluent treatment system and retaining basins for irrigation of effluent.
- Architects – redesign of internal room layout and modifications to Norris Building.
- Building surveyor – addressing dispensation requirements relating to balcony rails, stair rails and fire protection.

For more examples, see the recent projects tab at www.projectplandev.com.au

5 – Stay ahead of the planning process

Municipalities have 60 statutory days to consider a planning application. This statutory “clock” process stops for:

- Requests for further information - 28 days from receipt of the application.
- Advertising to surrounding owner/occupiers – 14 days

The time taken to process the application also depends on:

- the complexity of the application,
- objections received after advertising to the public and adjoining property owners.
- delays when requests for additional information are required.

The best way to speed your application through the system is to include reports that address all the issues – both those of council and those likely to arise from objectors. Your town planning consultant's experience will help you anticipate and head off concerns about amenity, parking, overshadowing, neighbourhood character and so on.

You can appeal to the Victorian Civil and Administrative Tribunal (VCAT) if the council fails to make a decision within the 60-day statutory time period. Some applicants have not appealed to VCAT on the promise of a permit being issued only to be denied at the last minute and issued with a refusal (for an example, see the Furness Street project at recent projects tab at www.projectplandev.com.au).

Your town planning consultant is in a great position to keep you informed of your rights during the assessment of your application.

6 – Expert representation at VCAT

Council decisions about your planning application can be appealed at VCAT, including:

- Council refuses your planning application
- Council fails to make a decision within the required 60 statutory days
- Objectors appeal council's decision to issue a planning permit
- Planning permit conditions – too onerous, not relevant, too restrictive, or substantially changes your application.
- Disagreement over matters that have to be completed to the *satisfaction of the Responsible Authority* (usually specified in permit conditions, where later plans have to be prepared after the decision has been made).

Whether you are there for your own appeal or because an objector is unhappy with your permit, representation by a qualified planner experienced in presenting cases to VCAT is recommended. A planning consultant should also advise whether other experts are needed to resolve issues raised by objectors or the council.

7 – Expert witness

Experts are often retained to provide advice about planning, traffic, heritage or environment, which is delivered to VCAT to assist your application. The case is presented by an advocate, such as a planner, solicitor or barrister, who will call on the experts to address the issues raised, whether by municipalities or objectors.

Because these experts have not been involved in the project, they provide VCAT with an independent opinion that supports your case.

8 – Amending planning schemes & independent panel

If your land is in a zone or overlay that prevents your development but is no longer relevant, you can make a submission to the council to have it amended.

Your town planning consultant will justify the amendment from a strategic standpoint, identifying changes such as environmental factors, outdated zone/overlay controls, or perhaps the need to extend areas due to growth.

When a municipality agrees to a rezoning, it has to be authorised by the Minister for Planning and then placed on formal exhibition for a minimum of one month. If submissions are received against the amendment that council does not accept, an independent panel is convened. You need to be represented at the panel and a qualified planning consultant who understands the system is your best advocate.

9 – Consultation, negotiation & mediation

Objections are usually received when planning applications are advertised and most councils hold a meeting between the applicant and objectors to see whether issues can be resolved.

These meetings can be emotionally charged. Rather than allowing your personal involvement in the project to cloud your objectivity, consider appointing a planning consultant to attend these meetings for you.

10 – Due diligence, site and property inspections

The Section 32 Contract of Sale document you are given when purchasing a property identifies the zone (for example, residential) and overlay (for example, heritage) and whether a planning scheme amendment has been prepared or approved that envisages a change to these controls.

An investigation of these controls and any amendments is required to make sure they would not affect your development. You should also ask your town planning consultant to inspect the site and property to check for opportunities and constraints that might impact on your proposal.

An experienced town planning consultant offers an invaluable insider's guide to the intricacies of the infamously convoluted planning approval process. With so much resting on the outcome, expert advice might just be the best investment you make.

For more information on how Project Planning and Development can make your project approval process a success, contact:

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