

## OVERVIEW

A change in land use usually relates to agricultural, horticultural, commercial, retail, or industrial business activity. Under the *Development Act 1993*, an application is required for a 'change in the use' of land.

## DO I NEED APPROVAL?

Usually an application is required if:

- the use supersedes a previous use of the land or;
- the property has been previously approved for a land use that is different to the proposed land use or;
- the commencement of the use or the revival of the use follows upon an extended period of non-use; or
- the use is additional to a previously established use of the land which continues despite the commencement of the new use.

It is important to check with council's Development Assessment Unit before you begin your proposed land use or business. This way you can be sure that it complies with council's Development Plan.

## EXISTING USE RIGHTS

Existing use rights may apply where a use was lawfully established in the first instance, and has been continued since that time. For Council to determine whether existing use rights apply, a body of evidence including a statutory declaration may need to be supplied to Council.

## WHAT INFORMATION IS REQUIRED IN AN APPLICATION?

The information that you provide with your application is the basis upon which your application is assessed. If the information is inadequate, you run the risk of delaying the assessment or creating confusion about the nature of your application. For this reason the information that you provide should aim to ensure that the assessing officers clearly understand what currently exists and what you are proposing.

## WHAT OTHER INFORMATION IS REQUIRED IN AN APPLICATION?

To assist Council in assessing your application, the following information is required:

- Certificate of Title
- An accurate site plan detailing the building or part of a building (premises) or area of land where the proposed change of use is to occur and including
- North point on the site plan and an accurate depiction of the car parking area (if applicable)
- Where applicable, all existing buildings and other features such as trees, bores, dams, easements, access points and watercourses
- Floor plans if relating to a change of use of building or part of
- Description of all adjacent land uses must be shown on the site plan.

- Further details about the proposed land use including:
- Description of the proposed activities
- Hours of operation
- Staff numbers
- Car parking provision/area
- Traffic movements

Please also refer to Development Application Checklist

### **DO OTHER AUTHORITIES NEED TO BE CONSULTED?**

Council may also need to consult with other authorities such as State Government agencies responsible for transport, environmental protection, heritage and utilities.

Further consultation and public notification may also be required; however, council's planning staff will notify you if this is required.

### **SHOP OR RESTAURANT**

In planning terms a 'shop' is a premise used primarily for the sale by retail, rental or display of goods, foodstuffs, merchandise or materials and can also mean a personal service establishment (e.g. hairdresser)

There is often confusion with the difference between a shop used for the sale of foodstuffs and restaurant. Each land use is treated differently in the planning and building rules assessment. If a premise is primarily used for the sale of foodstuffs, with only limited consumption of food/meals on-site the premise is treated as a shop. This sort of premise is commonly known as a 'walk in' takeaway shop. Therefore, if a tenancy or premises was previously used as another kind of shop (i.e. a jewellery or clothing shop) there would be no need for a change of use if this was later to be converted to a takeaway food shop. Given retail premises are generally categorised in three different types in development legislation, namely a shop, service trade premise or bulky goods outlet, it always best to consult with Council to determine the most recent approved use of the vacant premises.

Distinct from a shop, a restaurant is a premise or tenancy used primarily for the consumption of meals on the site. If the business model is for meals to primarily be consumed within an existing premise or on the site a change of land use to a restaurant would be required. Given the expected length of stay is greater for a restaurant as opposed to a shop, the car parking rate required is greater and therefore this would need to be addressed in the planning assessment.

### **FAST-TRACKED CHANGE OF USE PLANNING APPLICATIONS**

In commercial centre zones, namely the District Centre, Local Centre, Neighbourhood Centre and Town Centre Zones, there is the potential that certain change of use applications can be streamlined. Specifically, a change of use to a shop, office, consulting room or any combination of these uses can be treated as 'complying' development (guaranteed planning consent) when the development achieves compliance with all the criteria set out in the procedural matters of the relevant zone. Some of these criteria include:

- The area to be occupied must be within an existing building
- The building is not a State heritage place
- The development will not involve external alterations or additions to the external appearance (including painting) of a local heritage place
- There are specific requirements relating to shops that involve the handing and sale of foodstuffs

- For shops greater than 250sqm, the primary access cannot be via an arterial road unless the development is located within an integrated complex containing two or more tenancies
- The off-street vehicle parking is provided in accordance with the rate specified in Table AdHi/4- Off-Street Vehicle Parking Requirements in the Adelaide Hills Council Development Plan, subject to a few exceptions

The above is a brief summary of these criteria and should not be taken as a complete list. These criteria can be viewed in full in the Adelaide Hills Council Development Plan or alternatively please contact a member of the planning team to discuss.

### **RURAL LAND USES**

For change of use applications relating to horticulture, viticulture, wineries, cellar doors and other rural land uses or activities it is recommended that you refer to one or more of the applicable fact sheets:

- Horticulture
- Rural Activities
- Cellar doors, restaurants, function centres, wineries & special events

### **PLEASE NOTE**

The information provided in this Fact Sheet is only intended to be a summary. All applications are considered on their individual merits and therefore situations may vary.

#### **Contact details**

Development & Regulatory Services  
Duty Planner  
(08) 8408 0400

#### **Further information**

Adelaide Hills Council  
[mail@ahc.sa.gov.au](mailto:mail@ahc.sa.gov.au)  
[ahc.sa.gov.au](http://ahc.sa.gov.au)  
PO Box 44  
Woodside SA 5244