



Objectors Guide

Lodging an objection (submission) to a planning application

This guide has been developed to help you understand the process involved when lodging an objection to a planning application.

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Introduction

You may recently have become aware of a planning permit application. You may have received a letter in the mail or read a notice in the local newspaper. Alternatively, you may have spoken to an owner or developer about their development or seen a sign on the proposed site. If you believe you will be affected by the proposed use or development of land, you may object to the proposal. If you are supportive of the proposal, you can also lodge a submission in favour of the proposal.

This guide provides information on what to think about if you are considering making a submission to a planning permit application and the process involved if you decide to lodge an objection.



Work out how the proposal will affect you

Information about the application can be found on Council's website, including the relevant documents such as plans, written submission, reports etc. or in person at Council's offices (Swan Hill & Robinvale). Note these documents are only available online until the end of the advertising period.

<https://swanhill.greenlightopm.com/search-advertising>

Review the relevant documents and think about what is important about your property and how the proposal may impact you. Objections must state how the proposal will affect you and should relate to relevant planning considerations, including:

- Negative changes to the amenity or features of your area,
- Any potential environmental effects,
- Detrimental social or economic effects; and
- Where the proposal is contrary to the policies contained in the Swan Hill Planning Scheme.

Examples of other issues that cannot be considered when Council decides on the proposal include:

- Loss of property value,
- The type of residents that will occupy new dwellings; and
- Commercial competition.

You can also speak to Council's planning team if you have any questions about the proposal. You can also ask friends, neighbours, or a town planning consultant for their opinion on the plans. You can also ask the applicant or their representative to meet with you to discuss the plans, however they may choose not to.

Prepare and lodge your submission

You can submit your submission in two ways:

- Online via Council's website: <https://swanhill.greenlightopm.com/search-advertising>
- In writing to Swan Hill Rural City Council PO Box 488 SWAN HILL VIC 3585

If you choose to submit your objection in writing, the submission must include the following:

- Address of the site on which the development or use is proposed,
- Your name, postal address, telephone number and email address; and
- Your reasons for objecting and how you think you will be affected.

A deadline for submissions will be included on the notice, although you can lodge a submission at any time prior to Council deciding. If you are objecting, you may wish to indicate to Council how the proposal could be changed to make it acceptable. If you can reach a compromise with the applicant, and you no longer have any concerns about the application, you can withdraw your submission (in writing). If you withdraw your objection, you will not be informed of the decision and you will lose your right of appeal if you are unhappy with the decision.

What happens after I lodge my submission?

Submission

Council aims to facilitate good planning outcomes, which is why we encourage you to make suggestions on how the development may be improved. Once submitted, you will receive an acknowledgement letter advising your submission has been received by Council.



Contact

As part of the planning assessment, Council officers may contact you to discuss your concerns and may explore changes to the plans with yourself and subsequently with the applicant.

Mediation meeting

At the end of the advertising period, Council officers will consider whether a meeting should be held before the application is considered further. These meetings are not scheduled for every application; their occurrence depends on the likelihood of reaching an agreement between the parties involved or the potential benefits that may arise from holding such a meeting, such as information sharing. If a mediation meeting is deemed necessary, Council will extend an invitation to the applicant and objectors. The meeting serves as a platform for discussions regarding the proposal, aiming to:

- Identify concerns,
- Explore possible solutions to address those concerns,
- Discover opportunities to enhance outcomes for all participants in the process,
- Ensure all relevant information is considered before Council makes a decision; and
- Provide an opportunity for everyone involved to freely discuss planning proposals, including exploration of a compromise if possible. This may lead to a withdrawal of objections, or the submission of amended plans by the applicant.

The meetings assist planning officers to gain a better understanding of each party's views before coming to a decision on the proposal. It is not compulsory to attend this meeting, however it may be easier to discuss issues at this level than at a formal Council meeting. Attendance at this meeting is not mandatory.

Invitation to speak to Councillors'

Councillors' may invite both the applicant and objectors to a Councillor briefing session. This gives all parties involved an opportunity to speak directly to the Councillors' to present their views on the proposal. All parties have a brief (usually a 5-minute) opportunity to address the Councillors' before a decision is made at a future Council meeting (Council's Ordinary Monthly Meeting).

You may be advised at the end of this meeting that a tentative booking has been made at the next Council meeting for a decision, but this may change depending on circumstances or staff resourcing.

Council Meeting

Dates and agendas for Council Ordinary Meetings can be found on Council's website. Meetings are live streamed via:

<https://www.swanhill.vic.gov.au/about/council/meetings/2023-council-meetings/>

Agendas are uploaded to the website the Friday before the following Tuesday's meeting.

What happens after a decision has been made?

Council supports the application when objections are received:

A Notice of Decision to Grant a Permit (NOD) will be issued to all relevant parties. This is not a Planning Permit. It is a notice advising that Council has decided to support the application, subject to relevant conditions. An objector has 28 days to lodge an application to review against Council's decision to the Victorian Civil & Administrative Tribunal (VCAT). After the 28 day period has concluded, the permit will be issued if no appeals have been lodged at VCAT.



Council does not support the application when objections are received:

A Notice of Refusal will be issued to all relevant parties, which includes the reasons for the refusal. The applicant has 60 days to lodge an Application for Review (appeal) with VCAT against Council's decision. If an Application to Review is lodged, the applicant must also notify Council and all objectors. Council must attend the VCAT hearing, and objectors may also choose to attend the hearing at no cost. After the 60 days period has concluded, the refusal will remain in effect if no appeals have been lodged at VCAT.

Note both the applicant and objector can appeal the decision or the conditions placed on the permit.

Can I challenge a Council decision?

Yes, you can. If you do not agree with Council's decision you can lodge an Application for Review with VCAT. Details on how to lodge an appeal will be sent with the Notice. Further information can be found on VCAT's website: <https://www.vcat.vic.gov.au/case-types/planning>.

Important things to know

Privacy

The submission for a planning permit application is a public document and it is crucial for all concerned parties to have access to it in order to provide their feedback. Copies of submissions may be provided to various parties, including the applicant, other individuals who have submitted their input, and VCAT.

Petitions

A petition is considered as one objection under Section 57(3), (4a) and (4b) of the Planning and Environment Act 1987. The first person listed will receive correspondence from Council unless another contact is specifically provided.

High Volume of Objections (not a petition)

Council may request the objectors collaborate and appoint a spokesperson when invited to a Councillor Briefing Session. This is to ensure efficient communication during the meeting. The spokesperson will then have the opportunity to advocate for the interests and concerns of all the objectors.

Frequently asked questions

Why have I received a public notice in the mail?

There are several reasons why you have received this notice in the mail. Council has determined that you may be affected by the granting of a planning permit to develop and/or use a property near you. Public notice is typically sent to residents or property owners in close proximity to the location where the planning application is being sought. This ensures that those who are most likely affected by the proposed development can review the details and raise objections if necessary. The public notice is part of the community consultation process, which encourages public participation and engagement in the planning decisions that affect the local area. By receiving the notice, you are given the chance to provide feedback, raise objections, or express support for the proposed development. The distribution of public notices promotes transparency in the planning process. It allows affected individuals to be informed about proposed changes and enables them to participate in the decision-making process. By involving the community, Council ensures that the decisions are made with consideration for the interests and concerns of those directly affected.

Do I have to use a special form?

No, objections can be lodged online, by email or post.



Frequently asked questions continued

Do I need to tell you my name and address?

Yes, you need to advise these details to Council. The reason for this requirement is to ensure transparency and accountability in the planning process. Here are a few key reasons why your name and address are required:

Notification and Communication

By providing these details, Council can effectively communicate with you regarding the process, provide updates and final decision. We need accurate contact information to keep you informed throughout the process.

Validity of Objection

Including your name and address validates your objection as a legitimate submission. It helps Council ensure that objections are submitted by concerned individuals who are directly affected or have a genuine interest in the planning process.

Public Record

Your name and address become part of the public record associated with the planning application. This transparency allows for a fair and open process, where all parties involved can access a review objections and associated details.

Consultation and Participation

In some cases, objectors may be invited to attend meetings or public hearings related to the planning application. By providing your name and address, you can be included in such consultations and have an opportunity to express your concerns or provide additional information.

It is important to note that your personal information is handled in accordance with privacy laws and regulations, and it is typically not disclosed publicly beyond what is required for the planning process.

How much time do I have to object?

The advertisement for a Council planning application is for a period of 14 days. The date mentioned on the public notice signifies the conclusion of this advertising period.

It is important to note that Council is unable to reach a decision until after this date. Council is obligated to carefully review any objections it receives prior to reaching a decision.

While Council will take into account objections received after the notification period has ended but before a decision is made, objections received after Council has already made a decision cannot be considered.

Does the applicant know who has objected?

Yes. Objections become public documents. Any objection is available to any person who wishes to view the application.

How can I check the status of an application?

Visit Council's website and search for the application by using the Planning Register:
<https://swanhill.greenlightopm.com/search-register?deptName=Planning>



Frequently asked questions continued

Will I be kept informed if the applicant makes changes to the proposal after a mediation meeting and before the decision is made?

Whilst efforts are generally made to keep stakeholders informed if the applicant makes changes to the proposal after a mediation meeting and before a decision is made, it is important to note that this may not always occur, particularly in cases involving minor changes or limited staff resources.

In situations where the changes made to the proposal are considered minor or have minimal impact on the overall project, Council may not provide specific updates or notification to all parties involved. This is because the changes may not significantly alter the nature of the application or warrant extensive communication. Additionally, the availability of staff resources can also affect the level of communication regarding changes to the proposal. Council may have limited resources to dedicate to frequent updates, especially when dealing with numerous planning applications simultaneously.

However, despite these considerations, Council still strives to maintain transparency and keep stakeholders informed to the best of our ability. It is advisable to establish clear communication channels with Council's Planning Department or the designated planning officer handling the application.

By proactively reaching out and expressing your desire to keep you informed, you can increase the likelihood of receiving updates regarding any changes made to the proposal before a final decision is made. Ultimately the extent of the information provided regarding changes to the proposal may vary depending on the specific circumstances and resources available, but it is recommended for you to proactively seek updates to stay informed throughout the planning process.

Am I able to withdraw my objection?

Yes, you may withdraw your own objection. This must be done in writing to Council. Please ensure your letter includes an application reference number (Example: PLN20230004) and email to planning@swanhill.vic.gov.au

If you lodged your objection via the website, you can log back into the portal and complete the withdrawal section.

Note Council cannot accept a "conditional" withdrawal of an objection. For example: "If the developer removes the window, I no longer object."

What costs are associated with lodging an Application to Review to VCAT?

When lodging an Application for Review to VCAT, you will be required to pay a fee. Typically, each party involved in the Application for Review is responsible for their own costs. Costs are listed on VCAT's website.

However, if the tribunal determines that the proceedings have been initiated in a vexatious or frivolous manner, with the intention of obtaining or maintaining a direct or indirect commercial advantage, or if someone has suffered as a result, costs may be imposed on the person who lodged the Application.

The Application for Review is heard by members of VCAT who possess the necessary knowledge and expertise related to the subject matter of the case. Decisions made by VCAT are final and binding on all parties involved in the appeal, unless a question of law arises, and an appeal is made to a court.

VCAT website: <https://www.vcat.vic.gov.au/case-types/planning>

