

2.0 USER GUIDE

25/05/2017
VC133

2.01 What is a planning scheme?

25/05/2017
VC133

A planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria.

2.02 Who is affected by this planning scheme?

25/05/2017
VC133

All people and corporations must comply with this scheme. Every State Minister, government department, public authority and municipal council must also comply unless specifically exempted by the Government.

2.03 What does this scheme consist of?

25/05/2017
VC133

This scheme consists of a written document and any maps, plans or other documents incorporated in it (see *Clause 81*). It contains-

- The objectives of planning in Victoria
- Purposes of this planning scheme
- The User Guide
- A State Planning Policy Framework
- A Local Planning Policy Framework
- Zone and overlay provisions
- Particular provisions
- General provisions
- Definitions
- Incorporated documents
- VicSmart planning assessment provisions

The *State Planning Policy Framework* covers strategic issues of State importance. It lists policies under nine headings - settlement, environmental and landscape values, environmental risks, natural resource management, built environment and heritage, housing, economic development, transport and infrastructure.

Clause 11 of the *State Planning Policy Framework* sets out Victoria's settlement policy, including relevant regionally specific policies applying to the area covered by this scheme. Regional policy in this scheme forms one of nine regionally specific policies that cover the state of Victoria, including:

- Metropolitan Melbourne
- Central Highlands
- Geelong - G21
- Gippsland
- Great South Coast
- Hume
- Loddon Mallee North

- Loddon Mallee South
- Wimmera Southern Mallee.

These policies are of state importance and are recognised through their inclusion in the Victoria Planning Provisions.

Every planning scheme in Victoria contains the *State Planning Policy Framework*, which is identical in all schemes, except for Clause 11, where each scheme contains statewide settlement policy in clauses 11-11.05 and only the applicable regionally specific policies in clauses 11.06-11.15.

The *Local Planning Policy Framework* contains a municipal strategic statement and local planning policies. The framework identifies long term directions about land use and development in the municipality; presents a vision for its community and other stakeholders; and provides the rationale for the zone and overlay requirements and particular provisions in the scheme.

The *Zone* and *Overlay* requirements and *Particular provisions* show -

- The type of use and development allowed in each zone.
- Additional requirements for subdivision, buildings and works on land that is affected by an overlay.
- Requirements for any specific use or development.

The *General provisions* provide information on the administration of this scheme and other related matters. *Definitions* advise on the meaning of words in this scheme.

The *VicSmart* planning assessment provisions set out a fast-track permit application process, including the classes of applications that are eligible for that process.

2.04 How do I use this planning scheme?

25/05/2017
VC133

2.04-1 The planning scheme map

25/05/2017
VC133

The planning scheme map shows how land is zoned and whether it is affected by an overlay. This information is indicated by a letter and number code that is explained on the front page of each map: For example, C1Z stands for Commercial 1 Zone.

To find out the effect these requirements have on your land, it is necessary to refer to the written document.

2.04-2 The written document

25/05/2017
VC133

Policy frameworks (Clauses 9 to 22)

The State and Local Planning Policy Frameworks contain the long term directions and outcomes sought by this scheme. These are implemented through the Zone, Overlay and Particular provisions requirements. It is important to refer to both frameworks when considering the requirements of the scheme.

Zone requirements (Clauses 30 to 37)

A zone controls land use and development. Each zone includes a description of its purpose and the requirements that apply regarding land use, subdivision and the construction and carrying out of buildings and works.

Each zone lists land uses in three sections:

- *Section 1* Uses that do not require a permit
- *Section 2* Uses that require a permit

- **Section 3** Uses that are prohibited

Uses that are not specifically mentioned are covered by a reference to 'any other use'. This is usually found in *Section 2*, but is occasionally found in *Section 3*.

Sometimes a use in *Section 1* or *Section 2* must meet specified conditions. If these are not met, the use may require a permit or may be prohibited.

Note that the three sections refer to the *use* of land, not to the *development* of land.

Development of land includes the construction of a building, carrying out works (such as clearing vegetation), subdividing land or buildings, or displaying signs. The zones indicate whether a planning permit is required to construct a building or carry out works. Some buildings and works, such as fences and underground services, usually do not require a permit. These are listed in *Clause 62* of the scheme under *Uses, buildings, works, subdivisions and demolition not requiring a permit*.

Overlay requirements (Clauses 40 to 45)

Overlays affect subdivisions, buildings and works. They operate in addition to the zone requirements and generally concern environmental, landscape, heritage, built form, and land and site management issues. It is essential to check whether an overlay applies to your land before commencing any use or development.

Particular provisions (Clauses 50 to 57)

Other planning requirements may apply to particular uses or development. These may be advertising signs, car parking or specified types of use. Such requirements are listed under *Particular provisions*. It is essential to check whether any of these requirements apply to your land before commencing any use or development.

General provisions (Clauses 60 to 67)

The general provisions provide information on:

- The administration of this scheme.
- The operation of existing uses and land used for more than one use.
- Uses, buildings, works, subdivisions and demolition not requiring a permit.
- Matters that Council must consider before deciding on a proposal under this scheme.

Definitions (Clauses 70 to 75)

Words used in this scheme have their common meaning unless they are defined in the scheme, the *Planning and Environment Act 1987* or in other relevant legislation. The purpose of defining a word is to limit its meaning to a particular interpretation or to explain the meaning of a word or phrase peculiar to this scheme. You should check whether any word or term is defined to ensure you understand its meaning within the context of the scheme.

If in doubt about the meaning of a word that is not defined, ask a Council planning officer for assistance.

VicSmart planning assessment provisions (Clauses 90 to 95)

VicSmart is a fast-track permit application process for assessing VicSmart applications within 10 business days of lodgement.

The VicSmart planning assessment provisions set out:

- The planning assessment process for VicSmart applications.
- The classes of application that are VicSmart applications.
- The information requirements and decision guidelines for each class of VicSmart application.

An application is a VicSmart application if:

- The application is for a permit under a provision listed in Clause 92 or the schedule to Clause 94.
- All the permit triggers for the application are listed in Clause 92 or the schedule to Clause 94.
- Any permit issued will not result in a breach of a registered restrictive covenant.
- Where referral is required under Clause 66, the application:
 - has been considered by the referral authority within three months prior to the application being made to the responsible authority; and
 - the referral authority has stated in writing that it does not object to the granting of the permit for the proposal.

2.05

25/05/2017
VC133

How do I find out about requirements affecting my land?

You should first speak to a Council planning officer to find out how this scheme affects your land. The scheme is available for inspection at your Council office, and via *Planning Schemes Online* accessed from the Department of Environment, Land, Water and Planning (DELWP) website www.planning.vic.gov.au.

You can also apply for a *planning certificate* for a particular parcel of land. This will state the planning scheme zone and overlay requirements that apply to that land as shown on the scheme map. Note that the *certificate* does *not* state the strategies or policies that apply to the land under the scheme's policy frameworks.

A person selling land must make a *planning certificate* available to a purchaser before a contract to buy the land is signed.

2.06

25/05/2017
VC133

Changes to this planning scheme

This scheme is not a static document and is likely to change over time. A Council planning officer can tell you if an amendment affecting your land has been prepared. This information is also shown on a *planning certificate* or via *Planning Scheme Amendments Online* accessed from the DELWP website www.planning.vic.gov.au.

2.07

25/05/2017
VC133

Permit applications

If you propose to use or develop land, first discuss the proposal in detail with a Council planning officer. Early discussion will confirm whether a permit is necessary and identify any other requirements.

2.07-1

25/05/2017
VC133

Making a planning permit application

If a permit is required, an *Application for Planning Permit* form must be filled out and lodged with responsible authority, which is usually the Council.

The application must include all necessary supporting information such as plans, reports and photographs so that the proposal is fully described and can be understood by all interested parties.

The *Planning and Environment Act 1987* requires the payment of a fee for the processing of applications. Details of the fee can be obtained from Council.

In some circumstances, the Minister for Planning or another person *may* administer parts of this scheme. A Council planning officer can advise you what to do in such cases.

2.07-2 **Considering and giving notice of the application**

25/05/2017
VC133

In considering an application, Council will in most cases decide whether material detriment may be caused to any person and, if so, it must give them an opportunity to comment on the proposal.

There are a number of ways of giving notice of an application, including notifying the owners and occupiers of nearby properties, and placing notices on the land and in a newspaper circulating in the area.

With some applications, Council will seek the views of other government or public agencies before making a decision. It may also ask you to provide more information.

Once any necessary advertising has been completed and other agencies have had time to comment, the application will be decided.

In making its decision, Council must assess an application against the strategies and desired outcomes outlined in the scheme's policy frameworks. Any other matters that the scheme specifies must also be taken into account.

2.07-3 **The decision**

25/05/2017
VC133

Following consideration of your application, Council will decide to either:

- Issue a permit.
- Issue a notice of decision to grant a permit (which gives objectors a set time in which to lodge an application for review).
- Refuse to grant a permit.

A permit can be issued with or without conditions, and a proposal can only begin and continue if all the conditions on the permit are met.

2.07-4 **Do I have a right to seek a review of a decision?**

25/05/2017
VC133

In many cases, yes. Your rights to a review of a Council decision are usually explained in the document that conveys advice of Council's decision. Additional information on reviews of decision may be obtained from the Victorian Civil and Administrative Tribunal, Planning List, 55 King Street, Melbourne 3000 - Phone (03) 9628 9777.

2.07-5 **What is the difference between building and planning permits?**

25/05/2017
VC133

Planning permits must not be confused with building permits. Building permits are issued under the Victoria Building Regulations and generally relate only to the constructional aspects of a building or other development.

A building permit is required in most cases involving development. You should consult a building surveyor if any building is proposed. If a planning permit is required, it must be obtained before a building permit can be issued.

2.08 **Relevant legislation**

25/05/2017
VC133

Relevant legislation includes:

- *Planning and Environment Act 1987*
- *Planning and Environment Regulations 2015*
- *Victorian Civil and Administrative Tribunal Act 1998*
- *Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998*

Copies of legislation are available at the Victorian Legislation and Parliamentary Documents Home Page, www.legislation.vic.gov.au. They are also available for perusal at the State Library of Victoria.

2.09

25/05/2017
VC133

Need More help?

Contact a Council planning officer if you:

- Have a general enquiry about this scheme.
- Are unsure what requirements apply to your land.
- Are unsure of the steps in the planning application process.
- Would like to know how this scheme may be changed.
- Want a planning application form.
- Want to buy a copy of this scheme or an amendment.

A range of planning publications are available to help including *Planning – A Short Guide* and *Using Victoria's Planning System*, these can be obtained from the DELWP website, www.planning.vic.gov.au. VCAT publications can be obtained from the VCAT website, www.vcat.vic.gov.au.