

GLOSSARY

G

Delegation

PEA ss. 186-190

The *Planning and Environment Act 1987* provides the Minister, planning authorities and responsible authorities scope to reassign or 'delegate' certain responsibilities under the Act to a specified person. Decisions in relation to planning permits are often delegated by a responsible authority to an officer or a designated committee.

Discretionary uses

Discretionary uses are those uses that require a planning permit under the planning scheme. A responsible authority is required to exercise discretion in determining if a planning permit should be granted or refused.

Exercising discretion

Exercising discretion is acting according to one's own judgement. Responsible and planning authorities have wide discretionary powers under the *Planning and Environment Act 1987*. Discretion is most frequently exercised by responsible authorities in granting and refusing planning permits. State and local planning policies, zones and overlays guide the exercise of discretion over use and development in day-to-day decision making.

Natural justice

Reference:
the Macquarie
Dictionary, Third
Edition

That justice which responds to fundamental logic and absolute fairness rather than to the laws of a particular place and time.

The legal concept of the minimum standard of fairness which has to be applied in the adjudication of disputes, requiring that both parties be granted a fair hearing and that there be no bias on the part of the adjudicator.

Overlays

An overlay is a state-standard provision, forming part of a suite of provisions in the *Victoria Planning Provisions (VPP)*. Each planning scheme includes only those overlays that are required to implement the strategy for its municipal district.

Each overlay addresses a single issue or related set of issues (such as heritage, bushfire or flooding). The planning scheme maps identify land affected by overlays. Not all land is affected by an overlay, but where more than one issue applies to a parcel of land, multiple overlays can be used. Overlays must have a strategic justification and be linked to the Municipal Strategic Statement and local planning policy. Many overlays have schedules to specify local objectives and requirements. Most overlays set out requirements about development, not use. The requirements of an overlay apply in addition to the requirements of the zone. Neither is more important than the other. Overlays do not change the intent of the zone.

PEA ss. 8, 8A,
8B, 9

Planning authority

A planning authority is any person or body given the power to prepare a planning scheme or an amendment to a planning scheme. The Minister is a planning authority and may authorise any other Minister or public authority to prepare an amendment to a planning scheme. The Minister is also the planning authority for land not incorporated into any municipal district, such as land falling under the Alpine Resorts Planning Scheme, Port of Melbourne Planning Scheme, and the French Island and Sandstone Island Planning Scheme.

A council is planning authority for its municipal district and for any area adjoining its municipal district for which the Minister authorises.

Planning permit

A planning permit is a legal document that allows a certain use or development to occur on a particular parcel of land – usually subject to conditions. Council planners can provide advice on whether a planning permit is required and why. A planning permit ensures that:

- land uses are appropriately located
- buildings and land uses do not conflict with each other
- the character of an area is not detrimentally affected
- development will not detrimentally affect the environment
- places of heritage significance are not detrimentally altered or demolished.

A planning permit should not be confused with a building permit. A building permit is certification that a building or alteration to a building meets the minimum standard of construction specified in the Building Regulations 2006.

Planning scheme

A planning scheme controls land use and development within a municipal district. It contains state and local planning policies, zones and overlays and other provisions that affect how land can be used and developed. Each planning scheme consists of maps and an ordinance containing planning provisions. The planning scheme is a statutory document and each municipality in the state is covered by one.

Responsible authority

A responsible authority is the body responsible for the administration or enforcement of a planning scheme or a provision of a scheme. A responsible authority is responsible for considering and determining planning permit applications and for ensuring compliance with the planning scheme, permit conditions and agreements. The responsible authority is usually the municipal council. However, in the Melbourne Planning Scheme for example, the Minister for Planning is the responsible authority for land in a number of areas including the Melbourne Casino Area, Melbourne Docklands Area, Flemington Racecourse and the Royal Melbourne Showgrounds.

Schedules

PEA s. 13

Together with the Local Planning Policy Framework (LPPF), schedules are the means of including local content in planning schemes. They are used to supplement the basic provisions of a state-standard clause, zone or overlay in a planning scheme, adapting it to local circumstances and locally defined objectives. This means that schedules are a key tool for implementing objectives and strategies in the MSS.

A schedule can only be included where the relevant VPP provision provides for it. A schedule must use the format shown in the Ministerial Direction on the Form and Content of Planning Schemes.

For more information on schedules refer to *Planning Practice Note No. 10 - Writing Schedules*.

Statutory planning

The basic instrument for statutory planning is a planning scheme. Statutory planning entails the process of decision making on planning permits for new use and development. It includes the preparation and implementation of planning provisions for the planning scheme.

Strategic planning

Strategic planning is the research and formulation of policies or strategies to implement goals and objectives relating to particular land uses or areas. Strategic planning also involves monitoring and evaluating the implications of the provisions on land use and development.

Zones

A planning scheme uses zones to designate land for particular uses, such as residential, industrial or business. A zone will have its own purpose and set of requirements. It will identify if a planning permit is required and the matters that must be considered before deciding to grant a permit.

Standard zones for statewide application are set out in the VPP. These zones are used in all planning schemes, as required. Each planning scheme includes only those zones required to implement its strategy, as set out in its MSS. There is no ability to vary the zones or to introduce local zones. However, some zones have schedules to provide for local circumstances, such as the Mixed Use Zone and the Rural Living Zone.

Acts and Regulation – Annotated Abbreviations

This document includes annotated references to legislation in order to identify the source of information provided. The lists below provide a glossary of those abbreviated annotations:

ANNOTATED REF.	ACT NAME
BA	<i>Building Act 1993</i>
CCA	<i>County Court Act 1958</i>
CLRA	<i>Crown Land (Reserves) Act 1978</i>
CMA	<i>Coastal Management Act 1995</i>
CPA	<i>Criminal Procedure Act 2009</i>
EEA	<i>Environment Effects Act 1978</i>
EPA	<i>Environment Protection Act 1970</i>
HA	<i>Heritage Act 1995</i>
IA	<i>Infringements Act 2006</i>
ILA	<i>Interpretation of Legislation Act 1984</i>
LACA	<i>Land Acquisition and Compensation Act 1986</i>
LCRA	<i>Liquor Control Reform Act 1998</i>
LGA	<i>Local Government Act 1989</i>
MCA	<i>Magistrates' Court Act 1989</i>
PEA	<i>Planning and Environment Act 1987</i>
SA	<i>Subdivision Act 1988</i>
SCA	<i>Supreme Court Act 1986</i>
SWA	<i>Sex Work Act 1994</i>
VCATA	<i>Victorian Civil And Administrative Tribunal Act 1998</i>

ANNOTATED REF.	REGULATION NAME
I(RPD&F) Regs	Infringements (Reporting and Prescribed Details and Forms) Regulations 2006
LAC Regs	Land Acquisition and Compensation Regulations 2010
LCR Regs	Liquor Control Reform Regulations 2009
PE (Fees) Regs	Planning and Environment (Fees) Interim Regulations 2014
PE Regs	Planning and Environment Regulations 2005