

Planning requirements

How do I find out which zones and overlays apply to my land?

You can enter the address and receive a planning property report at planning.vic.gov.au or speak to your council.

What if an overlay applies to my property?

If an overlay applies to your property, find out whether a planning permit is required under that overlay for your proposal.

A proposal may have more than one requirement for a permit (for example, a permit requirement under the zone and separate permit requirements of any overlay that applies).

If your proposal is a class of VicSmart application under the zone and a permit is also required under an overlay, then it also needs to be specified as a class of VicSmart application in that overlay in order for the application to proceed under the VicSmart process.

A council planning officer can advise you what permit requirements apply to your proposal, and whether they are all classed as VicSmart.

The VicSmart operational provision is contained in [clause 71.06](#) of each planning scheme.

What is the difference between the VicSmart process and the regular process?

Key features of VicSmart include:

- a 10-business days assessment period
- notice of the application is not given to neighbours
- information to be submitted with an application and the matters that can be considered are pre-set
- the Chief Executive Officer of the council or their delegate decides the application.

The regular process usually involves:

- a 60 day assessment period
- notice of the application is given to neighbours who can object to a permit being granted
- council or a delegate of the council decides the application
- an objector can apply to VCAT for a review of council's decision to grant a permit.

Does clause 55 apply to a VicSmart application for two dwellings on a lot?

Yes. Clause 55 applies to a VicSmart application for two dwellings on a lot in the same way it applies to an application that is subject to the regular process.



Does the garden area requirement in the General Residential Zone or Neighbourhood Residential Zone apply?

Yes. The garden area requirement applies to a VicSmart application for two dwellings on a lot and to an application to subdivide land into two lots.

More information about minimum garden area is available in [**Planning Practice Note 84 – Applying the minimum garden area requirement.**](#)

Does a maximum building height requirement apply to the construction of two dwellings on a lot?

Yes. A maximum building height requirement in a residential zone or a schedule to a residential zone applies to a VicSmart application assessed under clause 55.

Does a public open space requirement apply to a two lot subdivision?

A public open space requirement in clause 53.01 or clause 43.06–8 or a schedule to those clauses or the *Subdivision Act 1988* does not apply if the subdivision subdivides land into two lots and the council considers it unlikely that each lot will be further subdivided. If the council does consider it likely that each lot will be further subdivided, the applicable public open space requirement will apply.

Applications

How do I make an application?

Before preparing and making an application, discuss your proposal with a council planning officer.

A council planning officer can advise on:

- whether you need a planning permit and why
- whether your proposal is a class of VicSmart application
- what information you need to submit with your application
- the relevant planning controls
- whether the consent of a referral authority will be required.

Your council may have other information and checklists that will help you prepare the application. A discussion will help you to include all the right information with your application and reduce delays.

To enable a council planning officer to decide an application in 10 business days you must submit all required information when lodging the application. Information that should be submitted with a VicSmart application is specified in the planning scheme.

If I have an existing application with council, will it automatically become a VicSmart application?

An existing application does not automatically become a VicSmart application. Instead, you will need to lodge a new VicSmart application with council.



Can I apply for a VicSmart permit to build two dwellings on a lot and a VicSmart permit to subdivide the land into two lots at the same time?

Yes.

Can I apply for a VicSmart permit if the land is subject to a registered restrictive covenant that limits the number of dwellings on a lot?

No. If the grant of a permit would result in a breach of a registered restrictive covenant it is not a VicSmart application and can only be assessed through the regular permit process.

A restrictive covenant is a private treaty or written agreement between landowners that limits the way land can be used and developed. If a registered restrictive covenant applies to your land, you will need to check if the proposed development would result in breach of a restrictive covenant.

State and local governments do not create or enforce restrictive covenants. This is done by owners of the land who benefit from the covenant.

More information about restrictive covenants is available at planning.vic.gov.au.

Two dwellings on a lot

Does the new Townhouse and Low-Rise Code apply?

Yes. Amendment VC267 introduced a deemed to comply assessment pathway (the 'Townhouse and Low-Rise Code') in clause 55 of each planning scheme to support faster decisions and greater certainty for townhouses and apartment developments up to three storeys.

Clause 55, including its operation and requirements, applies to the construction of two dwellings on a lot, including VicSmart applications.

Where can I find out how to meet the standards to be eligible for the VicSmart process?

The standards are set out in clause 55 of the relevant planning scheme. Find your planning scheme at [Browse Planning Schemes](#).

What happens if I can't meet one of more of the standards that would make me eligible for VicSmart?

All of the eligibility criteria must be met for an application to be assessed through the VicSmart process. If your application is unable to meet one or more of the standards that would make it eligible for VicSmart, then the regular permit process must be followed. Council will not be able to accept a VicSmart application that does not meet all of the eligibility criteria.



Do I have to meet the clause 55 standards that aren't listed as VicSmart eligibility criteria?

An application does not have to meet the clause 55 standards that are not listed as VicSmart eligibility criteria. However, the corresponding objectives in clause 55 must still be met. The application requirements in clause 55 state that an application must be accompanied by a written statement that explains how the development meets the corresponding objective.

Do these changes apply to small second dwellings?

Small second dwellings are classified differently to normal dwellings, and separate planning requirements apply. A small second dwelling doesn't usually require a planning permit. A permit cannot be granted to subdivide a small second dwelling.

Is there a limit to the size of my building?

There is no maximum building size specified in the planning scheme, however proponents should be aware that there are a number of planning requirements which will collectively limit the size of one or two new dwellings on a lot. These requirements include building height, minimum garden area, site coverage, siting, setbacks and amenity requirements.

Two lot subdivision

Can I subdivide my backyard into a second lot?

A planning permit is always required to subdivide land in a residential zone, and is often required under overlay controls (for example, the Heritage Overlay).

There are two new VicSmart classes of application for subdivision.

The first class applies if a planning permit has already issued to construct up to two dwellings on the lot. The eligibility criteria for this class are:

- the application must be to subdivide land into two lots
- a planning permit must have already been issued for the construction of up to two dwellings
- the planning permit must be valid
- each proposed lot must contain an existing dwelling, or one dwelling permitted to be constructed in accordance with the planning permit.

This class of VicSmart application:

- will be required to be accompanied by the information specified in existing clause 59.02 of the planning scheme and will be assessed against the decision guidelines in that clause
- applies to permit requirements in residential zones and some overlays.

The other new class applies if the subdivision creates at least one vacant lot. That is, there will not be an existing or approved dwelling on at least one of the proposed lots. The eligibility criteria for this class are:



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- the application must be to subdivide land into two lots for residential development
 - the subdivision must create at least one vacant lot
 - the land must not contain native vegetation if it has an area of 0.4 hectares or more
 - the land must not be located in a bushfire prone area, Environmental Audit Overlay or Neighbourhood Character Overlay
 - The land must be connected to reticulated sewerage if it is in the Township Zone.

This class of application will be required to be accompanied by the information specified in new clause 59.11 and will be assessed against the decision guidelines in that clause.

If you do not meet the eligibility criteria for these VicSmart classes, your application will go through the regular permit process.

Is there a minimum lot size?

The new VicSmart class of subdivision does not specify a minimum lot size that must be achieved. Lot sizes will be an outcome of the site layout and design response that is required to be undertaken in seeking a separate planning permit for the development of the land.

You should always check the planning scheme for the current requirements and always confirm what requirements apply by speaking to your council.