

# Planning requirements for heliports and helicopter landing sites

Planning Practice Note | 75

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The purpose of this practice note is to:

1. Explain how helicopter activity is regulated by the planning system.
2. Provide guidance to applicants and responsible authorities on preparing and assessing an application under Clause 52.15 of the planning scheme. The clause applies to proposals to use or develop land for a heliport or a helicopter landing site.

## Helicopter land use definitions

Clause 74 of the *Victoria Planning Provisions* (VPP) defines two helicopter related land uses:

- **Heliport**

A heliport is not separately defined in Clause 74 but is included within the definition of transport terminal. A transport terminal is defined as land used to assemble and distribute goods or passengers. It includes facilities to park and manoeuvre vehicles.

A heliport would normally have one or more helipads, with facilities for passenger handling such as a terminal building. It may also include facilities such as a hangar, refuelling and lighting.

- **Helicopter landing site**

Land used for the take off and landing of a helicopter, with or without a permanent landing pad, but without permanent facilities for the assembly and distribution of goods or passengers.

A helicopter landing site may range from a permanent and constructed landing pad to an unprepared site with no new buildings and works.

## When does helicopter activity become land used for a helicopter landing site?

The Victorian Civil and Administrative Tribunal (VCAT) has considered the question of whether a helicopter landing site constitutes a use of land in a number of cases including *Mornington Peninsula SC v Inchalla Nominees Pty Ltd (Red Dot)* [2008] VCAT 399 and *Mornington Peninsula SC v Lindsay Edward Fox (et al)* [2003] VCAT 722.

The Tribunal has found that a helipad use could be regular, intermittent or occasional, but would need to be more than an isolated or fortuitous landing or take off.

## Helicopters and airspace

Once a helicopter is in the air, it is beyond planning control.

Two independent statutory authorities are responsible for administering federal legislation and regulations for airspace management, including helicopters in flight:

- **The Civil Aviation Safety Authority (CASA)**  
Established by the *Civil Aviation Act 1988* and responsible for administering the Civil Aviation Regulations 1988, CASA conducts safety regulation of civil air operations.
- **Airservices Australia**  
Established in 1995 and responsible for airspace management, aeronautical information, aviation communications, radio navigation aids, aviation rescue and fire fighting services.

## Flying overhead

Planning consideration of a heliport or helicopter landing site does not generally extend to a helicopter flying overhead. For areas of controlled airspace, Airservices Australia is responsible for air traffic services, including managing designated flight paths.

For areas of uncontrolled airspace, Civil Aviation Regulations 1988 stipulate that a helicopter pilot must not fly over a city, town or populous area at a height lower than 1000 feet, or 500 feet over any other area. This does not apply if a helicopter is flying at a designated altitude, for example a flight path in controlled airspace.

## Helicopter flight paths

Helicopters are a unique form of aircraft characterised by flexibility in flight and near vertical ascent and descent. This allows them to land virtually anywhere and this often requires variable flight paths. While land use planning does consider flight paths near to airports, it is not always necessary or appropriate to do so for helicopter landing sites.

Airservices Australia is a federal statutory authority responsible for ensuring that pilots comply with the Air Navigation (Aircraft Noise) Regulations 1984. The authority also provides air traffic management for Melbourne's controlled airspace, which includes designating flight paths for helicopters.

For helicopter landing sites that are not in the vicinity of controlled airspace, flight paths are not approved. The operator must adhere to Visual Flight Rules and Civil Aviation Regulations which are based on safety.

For helicopter landing sites or heliports that are of significant community concern, there is an opportunity for a third party or the council to participate in a CASA administered process to develop a Fly Neighbourly Advice with the helicopter operator (see 'Dispute resolution' on page 5).

If it is imperative that the flight path be maintained for a heliport or helicopter landing site, for example a hospital helipad access, a planning authority may consider implementing a Design and Development Overlay on adjacent land to restrict building height levels on sites underlying the designated flight path.

## Do I need a planning permit under Clause 52.15?

A planning permit is required to use land for a helicopter landing site or a heliport under Clause 52.15 of the *Victoria Planning Provisions* unless the use meets one of the exemptions below. This includes if it is ancillary to another use of the land.

Any development (buildings and works) related to the use of land for a helicopter landing site or heliport requires a planning permit irrespective of whether the use is exempt. This ensures that any impacts of the development can be adequately assessed.

## Exemptions

Victoria's planning system recognises that some helicopter functions are necessary to properly carry out rescue and emergency services, public land management and agricultural activities, which do not require a planning permit in Clause 52.15 to use land for a helicopter landing site.

There are also circumstances where the transient use of land for a helicopter landing site does not require a planning permit, if conditions are met.

- **Emergency services** – No permit is required under any provision of the planning scheme to use land for a helicopter landing site that is used by a helicopter engaged in the provision of emergency service operations.

This can include hospitals, police, search and rescue and fire service helicopter landing sites, including training and the emergency landing of a helicopter due to a weather event or technical problem.

- **Agriculture** – No permit is required under any provision of the planning scheme to use land for a helicopter landing site that is used by a helicopter engaged in agricultural activity in conjunction with the use of any land for agriculture.

This can include flights for purposes such as spraying, dusting and fertilising operations and herding cattle. The purpose of the flight must have a direct link to the carrying out of agricultural activity on the land. It does not include private transport to and from other parts of the property or scenic tourist flights.

- **Public land management** – No permit is required under any provision of the planning scheme to use land for a helicopter landing site that is used by a helicopter engaged in the provision of public land management activities conducted by or on behalf of the Department of Environment, Land, Water and Planning (DELWP) and Parks Victoria whether on private land or not.

Examples of the type of activity undertaken by helicopters owned or contracted by DELWP and Parks Victoria may include bushfire fuel reduction burning operations, sling loading materials, general compliance operations, fire training, crop spraying and locust control.

- **General** – No permit is required under any provision of the planning scheme to use land for a helicopter landing site where the landing point is located more than 500 metres from a building used for a sensitive use that is not associated with the helicopter operation and more than 200 metres from a shipping channel in the Port of Melbourne, provided:
  - Frequency limitation: The number of flight movements does not exceed eight in a 30 day period and four in a 24 hour period. The take off and landing of a helicopter are calculated as separate flight movements.
  - Time limitation: Flight movements do not take place before 7am or after sunset on a weekday. Flight movements do not take place before 8am or after sunset on a weekend or holiday.

The separation distance, frequency and time limits for this exemption ensure that the impact of flights on the amenity of surrounding areas is minimised. This exemption includes any charter, tourism or private transport flights that meet all of the separation distance, frequency and time conditions.

If none of the exemptions apply, a permit is required to use or develop any land for a heliport or helicopter landing site, even if it is ancillary to another use on the land.

That is the case unless the zone provision that applies to the land specifically states otherwise.

To determine whether a helicopter landing site is operating under and adhering to this exemption, the responsible authority may request to view a log book or register of flight movements from the owner (for multiple operators) or operator.

Log books with details of each flight made are required to be maintained by helicopter pilots under the Civil Aviation Regulations 1988.

### What is considered a sensitive use?

Uses that are sensitive to the potential adverse amenity impact of a heliport or a helicopter landing site include accommodation, child care centre, education centre and hospital. See Clauses 74 and 75 of the planning scheme for a definition of these sensitive uses and related uses that may be included within these land use terms.

### Making an application for a heliport or a helicopter landing site

Applicants should make sure that the application fully describes the proposal, adequately identifies the land affected by the proposal and includes any further relevant information deemed necessary by the council.

Application requirements that must be included in any application to use land for a heliport or helipad are set out in Clause 52.15-2. They include a requirement for a site plan, location plan and written report.

The written report must demonstrate that a suitable separation distance has been met between the landing point of a heliport or helicopter landing site and an existing building used for a sensitive use that is not associated with the helicopter operation. This

can be achieved by demonstrating at least one of the following has been met:

- the proposed helicopter landing site or heliport is located at least the distance specified in the clause (varies according to all-up weight of helicopter including passengers, cargo and fuel) away from a sensitive use, or
- an acoustic report is provided that demonstrates the proposed heliport or helicopter landing site does not have an adverse noise impact on a nearby sensitive use. The acoustic report should prove it meets the noise level criteria set out for helicopters in the *Noise Control Guidelines* (Environment Protection Authority, 2008).

## Assessing an application for a heliport or a helicopter landing site

The following information may be useful for the responsible authority when assessing the impact a helicopter landing site or heliport may have on the surrounding area.

### Planning unit and measurement

A helicopter landing site is considered a specific site on land. There may be more than one suitable landing site on a property and more than one helicopter expected to service the site.

To measure the separation distance between a helicopter landing site or a heliport and the nearest sensitive use, the distance should be measured from the proposed helicopter landing site, rather than the boundary of the property.

The point of landing and take off for a helicopter landing site or heliport is generally a constructed pad or marked area. If the proposal doesn't include a pad or marked area, it can be considered to have an area equal in size to the undercarriage contact points plus one metre on all sides (consistent with the Landing and Lift Off Area of CASA's CAAP 92-2(1)).

If a landing site is not nominated, the boundary of the property should be used.

### Amenity

A responsible authority should consider whether or not the requirement for a written report, that demonstrates a suitable separation distance between the landing site and an existing building used for a sensitive use, has been met. This should be assessed using the specified distances in application requirements (Clause 52.15-2).

If it has not been met, an acoustic report must be provided that outlines the impact helicopter noise will have on any nearby sensitive uses. It may provide flight frequency limitations for a condition on a permit or noise attenuation measures that allows for a smaller separation distance without reducing the amenity impact.

The responsible authority must ultimately decide whether the impact on the surrounding community's amenity is acceptable.

### Safety

The helicopter operator is responsible for ensuring a proposed helicopter landing site or heliport meets CASA's *Guidelines for the establishment and operation of onshore helicopter landing sites* (CAAP 92-2 (2)) and *Guidelines for the development and operation of off-shore helicopter landing sites, including vessels* (CAAP 92-2(4)). However, safety may be considered a relevant matter (s.60(1A) of the Planning and Environment Act 1987) if there is an obvious or suspected safety issue or obstacle within the immediate vicinity of the helicopter landing site. It is recommended the responsible authority discuss the issue with the applicant and seek advice from CASA, if considered necessary.

### What to consider

Before deciding on an application for a heliport or helicopter landing site, the responsible authority must consider the decision guidelines at Clause 52.15-3.

The responsible authority should assess that the separation distance provided with the application is suitable. The distance will be determined to be suitable if it meets the distance specified in the clause or includes an acoustic report that demonstrates it meets the noise level criteria set out in the EPA's *Noise Control Guidelines*.

The all-up weight of a helicopter includes the occupants, fuel quantity, engine fluids and removable equipment or cargo.

The frequency of flight movements and hours of operation are key factors that contribute to a helicopter landing site's noise impact on nearby sensitive uses. The exemption limits provide a guide of what is acceptable at a distance of 500 metres. Acoustic advice, or advice from the Environment Protection Authority may be sought for different circumstances.

## Applying planning permit conditions for a heliport or helipad

Permit conditions should not be included that:

- require compliance with the Civil Aviation Safety Authority Publication CAAP 92-2. CASA requirements and regulations apply regardless and CASA is responsible for related enforcement
- require compliance with designated flight paths. This is not a planning consideration and only a concern of CASA and Airservices Australia
- require the helipad to only be used by the owner of the land or an associated business. The operator of a helicopter is of little concern to planning.

Permit conditions could be included that:

- restrict the frequency of flights. This may be in accordance with acoustic advice or an agreement with the operator and community.
- require no flights to be undertaken after designated hours without written consent of the responsible authority
- have the use comply with the *Noise Control Guidelines* (Environment Protection Authority, 2008)
- require that the permit holder keep a logbook of the use of the heliport or helicopter landing site and the logbook be made available for inspection by the responsible authority on request
- require the surface of the helicopter landing site to be treated to the satisfaction of the Responsible Authority so as to prevent any loss of amenity to the neighbourhood by the emission of dust.

## Dispute resolution

### Fly Neighbourly Advice

A Fly Neighbourly Advice (FNA) is a voluntary code of practice established between aircraft operators and communities or authorities to negotiate a reduction of disturbance or adverse amenity impact in an area. It may be instigated by the local government, business operator or community group that is affected by the operation of the aircraft. The development of the FNA is facilitated by the Office of Airspace Regulation, (+61 2 6217 1570).

FNA's must be consistent with CASA regulations and are not part of the planning system.

See the CASA website for more details at [www.casa.gov.au](http://www.casa.gov.au).

### Noise complaints

Helicopter noise concerns can be directed to Airservices Australia's Noise Enquiry Unit on 1800 802 584. Their role is a co-ordination point for the community to have its voice heard on aircraft noise issues by reporting community concerns to airlines, airports and the government. They also provide information on flight path changes, unusual flight patterns that are a result of weather events or emergencies and respond to enquiries about air traffic patterns in particular areas.

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