

Advisory
Note

Revised May 2009

Amendment VC56

Government funded education facilities

This advisory note provides information about the introduction of a new planning scheme provision, Clause 52.40 Government funded education facilities.

The new provision supports the development of school facilities funded under the Building Education Revolution Program – part of the Commonwealth's Nation Building Economic Stimulus Plan.

What is the Building the Education Revolution program?

The Commonwealth Government has committed funding of \$14.7 billion over three years to provide new facilities and refurbishments in Australian schools through the Building the Education Revolution program (BER).

Through BER, the Commonwealth aims to:

- ▶ provide economic stimulus through the rapid construction and refurbishment of school infrastructure
- ▶ build learning environments to help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together.

To ensure that the BER has the greatest impact on creating new jobs, the Commonwealth's guidelines require all state governments to support the delivery of enhanced facilities and infrastructure in schools, by ensuring that assessment processes involve minimal red tape.

How do the new planning provisions operate?

The *Victoria Planning Provisions* have been amended to exempt the need for a planning permit for buildings and works that are funded under the BER.

Clause 52.40 sets out requirements which, if met, allow a qualified building surveyor acting on behalf of the school to certify plans for buildings and works. A planning permit is not required.

Where one or more of the requirements are not met, or where the land is affected by a planning scheme overlay, the Minister for Planning is the responsible authority for determining these 'non compliant' development proposals.

How does the certification process work?

The BER certification process is outlined in the flowchart on page 5.

A qualified building surveyor acting on behalf of the school can certify plans for buildings and works that are recommended for BER funding, subject to compliance with the requirements below.

The certified plans must be signed, dated and lodged with council prior to the commencement of works. A copy of the certified plans must also be submitted to the Priority Projects Unit, State Planning Services, Department of Planning and Community Development, PO Box 500, Melbourne 3001 DX210098.

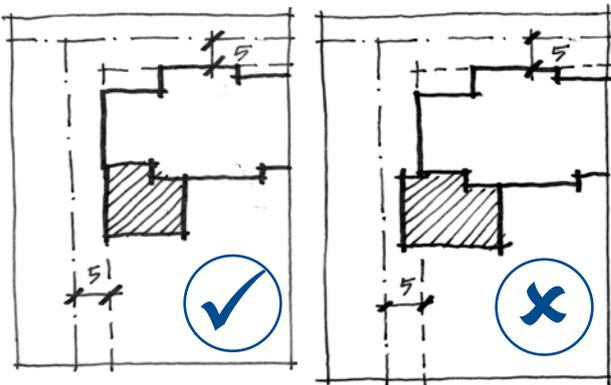


REQUIREMENT 1

The buildings and works are not within green wedge land as identified in Section 46AC of the *Planning and Environment Act 1987*. The Act defines green wedge land as land that is described in a metropolitan fringe planning scheme as being outside an urban growth boundary.

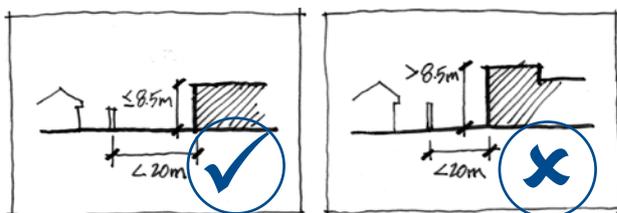
REQUIREMENT 2

The buildings and works are set back at least 5m from any property boundary.



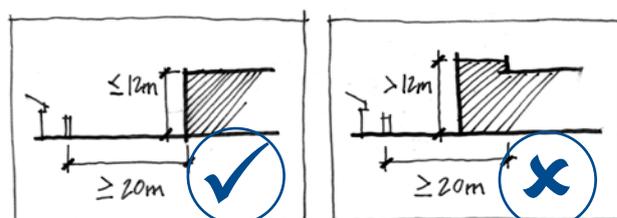
REQUIREMENT 3

For buildings and works set back between 5 and less than 20m from a property boundary, development does not exceed 8.5m in height.



REQUIREMENT 4

For buildings and works set back 20m or more from a property boundary, development does not exceed 12m in height.



REQUIREMENT 5

Any window is located and designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9m (measured at ground level) of the window, except where it either:

- ▶ has a sill height of at least 1.7m above floor level
- ▶ has fixed, obscure glazing to at least 1.7m above floor level
- ▶ has permanently fixed external screens to at least 1.7m above floor level.

REQUIREMENT 6

The buildings and works does not result in a change to the existing traffic access arrangements or changes to the number of car parking spaces provided on site.

REQUIREMENT 7

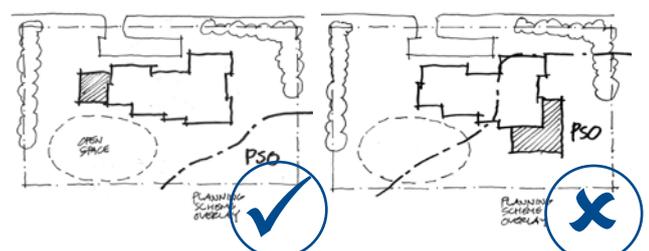
Native vegetation is not removed, destroyed or lopped except where:

- ▶ it is exempt under Clause 52.17-6
- ▶ there are no more than 5 trees to be removed if each tree has a trunk diameter of less than 40 centimetres, as measured at a height of 1.3 metres above ground level.

When considering native vegetation clearing on school sites, the location of new buildings and works should be carefully assessed to **avoid** impacts on native vegetation where it is practical to do so. Where it can not be avoided, the extent and impact of removal should be **minimised** through the planning, design and in the carrying out of buildings and works.

REQUIREMENT 8

The buildings and works are not affected by any planning scheme overlay i.e. no portion of the proposed building footprint is on a part of the land that is covered by a planning scheme overlay (PSO).





What happens if the proposal does not comply with the requirements?

The Minister for Planning is responsible for determining proposals funded under BER that do not meet the requirements specified in Clause 52.40-2 or where land is affected by a planning scheme overlay.

Councils remain responsible authorities for all other matters related to the administration and enforcement of the planning scheme in Victorian schools.

How will the Minister assess a non-compliant proposal?

Where the Minister for Planning is responsible for determining a proposal the following procedures apply:

- ▶ The plans (x3 copies) must be submitted to:
Attention: Priority Projects Unit, State Planning Services, Department of Planning and Community Development
PO Box 500, Melbourne 3001
DX210098
- ▶ The Department of Planning and Community Development will provide the relevant council with a copy of the proposal and an opportunity to provide comment.
- ▶ An inter-department working group will provide advice to the Minister for Planning on matters such as design quality, access and traffic arrangements, vegetation or heritage conservation. It will comprise representatives from relevant departments and agencies including the Department of Planning and Community Development – State Planning Services and Urban Design, VicRoads, Department of Sustainability and Environment, Heritage Victoria and other agencies as required.

What do I need to submit with a non-compliant proposal?

The BER projects checklist will assist in satisfying the information requirements.

The information required to be submitted for a non-compliant proposal (i.e. does not meet the requirements of Clause 52.40-2) should include, as appropriate:

- ▶ written confirmation that BER funding has been granted for the proposed buildings and works
- ▶ a covering letter or report including written authorisations or supporting reports where overlays affect the land
- ▶ an identifying plan number and date, title, scale and orientation
- ▶ the boundaries and dimensions of the whole site
- ▶ the location and use of buildings and works on the site and adjoining land
- ▶ layout of existing buildings and works, and the layout and floor plan of the proposed development
- ▶ dimensioned setback distances from the proposed development to all site boundaries
- ▶ extent of any proposed building demolition and structures to remain
- ▶ elevations of the proposed buildings and works on the site including proposed alterations and additions to existing buildings
- ▶ a schedule of materials, colours and finishes of external surfaces
- ▶ the location of existing vegetation and details of any vegetation removal including lopping.

The Minister for Planning may waive or reduce the information requirements.

Where changes to the existing traffic access arrangements or changes to the number of car spaces provided on site are proposed, details of crossovers, driveway widths, and car space dimensions (including aisle widths) are required.

Where the requirements for setbacks or height in Clause 52.40-2 are not met, shadow diagrams of the existing and proposed conditions at 9am and 3pm at 22 September are required.



What if the land is affected by a planning scheme overlay?

Where the site of the project is affected by a planning scheme overlay, additional requirements apply.

For instance, where the area of the proposal is affected by a Heritage Overlay, a heritage assessment will be required to be submitted with the plans, which addresses the impact of the proposed project on the heritage significance of the place. See BER projects checklist for further information.

How will the council be involved in the process?

Where plans have been submitted to the satisfaction of the Minister, the Minister will provide council with a copy of the proposal and an opportunity to comment.

The school must ensure that:

- ▶ a copy of the plans certified by the building surveyor is lodged with council and the Priority Projects Unit, State Planning Services, Department of Planning and Community Development prior to the commencement of works

OR

- ▶ a copy of the plans approved by the Minister for Planning is lodged with the council prior to the commencement of works.

If development is not constructed in accordance with the certified or approved plans, the development will not be in compliance with Clause 52.40. Council is the responsible authority for enforcement of its planning scheme.

Expiry of BER provision

Clause 52.40 Government funded education facilities, has been introduced as a temporary streamlining measure to support the implementation of the BER program. The provisions expire on 30 June 2012.

What about other approvals?

Clause 52.40 exempts the need for a planning permit for buildings and works funded under the BER program. This exemption does not extend to permits or approvals that may be required under other relevant legislation.

For instance:

- ▶ Buildings and works affecting a building that is listed on the Victorian Heritage Register, may still require heritage approval from Heritage Victoria.
- ▶ A site identified within an area of cultural heritage sensitivity, may require a Cultural Heritage Management Plan.
- ▶ A development affecting a listed species under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, may require Commonwealth approvals.
- ▶ Restrictions or encumbrances on the title for the land e.g. a restrictive covenant or section 173 agreement.
- ▶ Local laws affecting the site. Information should be obtained from the relevant council.

Further information

Find out more about this initiative via links in the Development Facilitation page at:

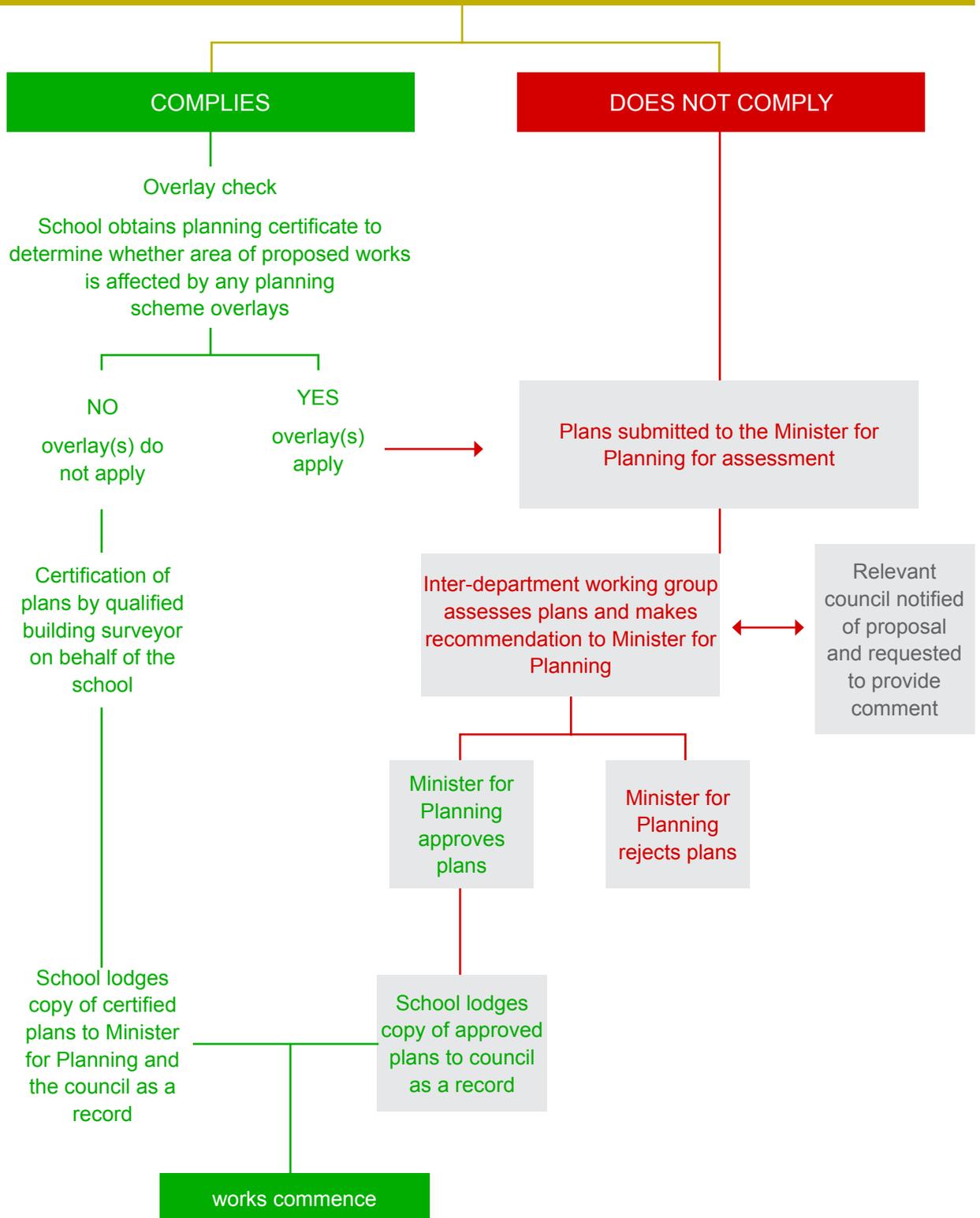
www.dpcd.vic.gov.au/planning.

Contact the Department of Planning and Community Development's State Planning Services (Metropolitan and regional offices) for information about proposals submitted to the Minister for Planning for approval. See the Planning – Contact us page at www.dpcd.vic.gov.au/planning for contact details.



BER certification process

Assessment by schools/qualified building surveyor against requirements in Clause 52.40-2





BER projects checklist

Please tick the applicable boxes to ensure you meet the information requirements.

Project funding

1. Are the buildings and works the subject of a funding application under the Building the Education Revolution program, or has an approval for funding been granted?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, proceed to question 2. If no, you do not qualify for consideration under Clause 52.40 of the planning scheme.
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Plan details

2. Have plans of the proposal been prepared and do they contain the following information (as relevant)?		
The boundaries and dimensions of the whole site, including relevant title details, scale and orientation	<input type="checkbox"/> Yes <input type="checkbox"/> No	
The location and use of buildings and works on the site and adjoining land	<input type="checkbox"/> Yes <input type="checkbox"/> No	
The layout of existing buildings and works, and the layout and floor plan of the proposed development	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Dimensioned setback distances from the proposed development to all site boundaries	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Extent of any proposed building demolition and structures to remain	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Elevations of the proposed buildings and works on the site including proposed alterations and additions to existing buildings	<input type="checkbox"/> Yes <input type="checkbox"/> No	
A schedule of materials, colours and finishes of external surfaces	<input type="checkbox"/> Yes <input type="checkbox"/> No	
The location of existing vegetation and details of any vegetation removal including lopping	<input type="checkbox"/> Yes <input type="checkbox"/> No	

If 'yes' to all of the above, please proceed to Question 3.

If the answer to any of the requirements listed above is 'no', this information must be provided.

Planning certificate

3. Has a planning certificate been obtained for the site to determine the existing zoning of the land and to ascertain whether any overlays affect the location of the new buildings and works?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If 'yes', proceed to Question 4. If 'no' a planning certificate can be obtained.
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Exemption from planning scheme requirements – certification

<p>4. Are the buildings and works within the green wedge land as defined in section 46AC of the <i>Planning and Environment Act 1987</i>?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If 'yes' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p> <p>If 'no' proceed to question 5.</p>
<p>5. Are the buildings and works setback at least 5 metres from any property boundary?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If 'yes' proceed to question 6.</p> <p>If 'no' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p>
<p>6. Are the buildings and works setback between 5 and less than 20 metres from a property boundary, and do not exceed 8.5 metres in height?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If 'yes' proceed to question 7.</p> <p>If 'no' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p>
<p>7. Are the buildings and works setback 20 metres or more from a property boundary, and do not exceed 12 metres in height?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If 'yes' proceed to question 8.</p> <p>If 'no' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p>



<p>8. Is any window located and designed to avoid direct views into the secluded private open space and habitable room windows of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, except where it either:</p> <ul style="list-style-type: none"> • has a sill height of at least 1.7 metres above floor level; • has fixed, obscure glazing in any part of the window below 1.7 metres above floor level; • has permanently fixed external screens to at least 1.7 metres above floor level? 	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If 'yes' proceed to question 9.</p> <p>If 'no' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p>
<p>9. Will the buildings and works result in a change to the existing traffic access arrangements or changes to the number of car parking spaces provided on site?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If 'yes' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p> <p>If 'no' proceed to question 10.</p>
<p>10. Does the proposal comply with the following provisions of Clause 52.40-3 for removal of native vegetation?</p> <p><i>“Native vegetation is not removed, destroyed or lopped, except where:</i></p> <ul style="list-style-type: none"> – <i>It is exempt under Clause 52.17-6.</i> – <i>There are no more than 5 trees to be removed if each tree has a trunk diameter of less than 40 centimetres, as measured at a height of 1.3 metres above ground level”</i> 	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If 'no' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p> <p>If 'yes' proceed to question 11.</p>
<p>11. Is the location of the proposed buildings and works affected by any planning scheme overlay?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If 'yes' you are not eligible for the certification process by a qualified building surveyor.</p> <p>You must submit plans and relevant documentation to the Minister for Planning for assessment. Proceed to question 12.</p>

Where all the requirements above are met, the plans are eligible for certification by a qualified building surveyor under Clause 52.40-2. This does not exempt permit approvals that may be required under other relevant legislation. Refer to the information under 'Other site constraints' at the end of this checklist for further help.



Plans to the satisfaction of the Minister for Planning (responsible authority)

Where one or more of the requirements above cannot be met, three (3) copies of the plans must be submitted to the Minister for Planning for assessment. The plans must be accompanied by all relevant information required in Clause 52.40-3 to enable the Minister to make an informed assessment of the proposal and any other information specified in questions 12 – 18 below.

12. Is the land affected by a Floodway Overlay, Special Building Overlay or Land Subject to Inundation Overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If 'yes' the proposal must be accompanied by the written authorisation of the relevant floodplain management authority.
13. Is the land subject to the proposal within a Heritage Overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by a report or statement addressing the impact of the proposed works on the heritage significance of the site.
14. Is the land within a Vegetation Protection Overlay, Environmental Significance Overlay or Significant Landscape Overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by a report or statement prepared by a suitably qualified consultant addressing the impact of the proposed works and/ or vegetation removal on the relevant statement of significance and objectives of the overlay.
15. Is the land within a Development Plan Overlay or Incorporated Plan Overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by a copy of the approved Development Plan or Incorporated Plan (school master plan), where applicable.
16. Is the land within an Airport Environs Overlay, Melbourne Airport Environs Overlay, City Link Project Overlay, Public Acquisition Overlay, Wildlife Management Overlay, Salinity Management Overlay or State Resource Overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by the written authorisation of the relevant management authority.
17. Is the land affected by any other overlay?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by a statement or report addressing the impact of the proposed buildings and works on the relevant purposes and decision guidelines of the overlay.



18. Will the proposed works result in a change to traffic access?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, the proposal must be accompanied by a traffic report prepared by a suitably qualified consultant.
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Other site constraints

If the site is identified within an area of cultural heritage sensitivity, a cultural management plan may be required to be obtained prior to certification being granted. Information regarding cultural heritage management plan requirements can be obtained from the Aboriginal Affairs Victoria website www.aboriginalaffairs.vic.gov.au.

Similarly, where the development affects a listed species under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (information can be obtained from the Department of Sustainability and Environment, through the Victorian Fauna Public Database) a permit may be required from the Federal Department of Environment, Water, Heritage and the Arts prior to certification.

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