

Amendment VC114

VicSmart Planning Assessment

A New Planning Permit Process for Victoria

VicSmart planning assessment is a new planning permit process for straightforward proposals. Amendment VC114 introduces the new VicSmart planning assessment provisions (VicSmart provisions) into the *Victoria Planning Provisions* (VPP) and all planning schemes.

What is VicSmart?

VicSmart is a shorter planning permit process for straightforward planning applications that will apply across Victoria.

The key features of the VicSmart process are:

- a decision within 10 business days
- the classes of VicSmart application are identified in the planning scheme
- the information requirements are pre-set in the planning provisions
- an applicant is expected to obtain any relevant referral authority approval before lodging the application with council

- the application is exempt from notice and third party review
- the responsible authority can request missing information within five business days after an application has been lodged with council and stop the statutory clock
- the application is only assessed against specific pre-set decision guidelines
- the Chief Executive Officer of the council or a delegate will decide the application
- only an applicant has a right of review to VCAT. An applicant can apply for a review if a decision is not made within 10 business days, if the application is refused a permit or against any conditions placed on the permit.

What does Amendment VC114 do?

Amendment VC114 amends the VPP and all planning schemes to:

- designate the Chief Executive Officer of the council as the responsible authority for VicSmart applications in Clause 61

- introduce Clauses 90 to 95 VicSmart Planning Assessment Provisions into a new section of the VPP that sets out the VicSmart operational requirements, classes of application, information requirements and decision guidelines
- introduce local VicSmart applications into the Ballarat and Greater Geelong Planning Schemes.

What are the new VicSmart provisions?

The new VicSmart provisions are set out in Clauses 90 to 95.

- **Clause 90** introduces a new section into the VPP for the VicSmart process and permit applications.
- **Clause 91** sets out the planning assessment process for VicSmart applications.
- **Clause 92** sets out:
 - the classes of application that are a State VicSmart application
 - the relevant provision of Clause 93 that contains the information requirements and decision guidelines that apply to each class of State VicSmart application.
- **Clause 93** sets out the information requirements and decision guidelines for each class of State VicSmart application.
- **Clause 94** and its schedule set out:
 - the classes of application that are a local VicSmart application
 - the relevant provision of Clause 93 or a schedule to Clause 95 that contains the information requirements and decision guidelines that apply to each class of local VicSmart application.
- **Clause 95 and its schedule** set out the information requirements and decision guidelines for each class of local VicSmart application.

What are the new State VicSmart classes of application?

Amendment VC114 introduces 12 classes of State VicSmart applications. The State VicSmart applications are listed in Clause 92 and apply in all planning schemes. The State VicSmart applications are set by the Minister for Planning and cannot be locally varied or changed.

What are local VicSmart classes of application?

In addition to the State VicSmart classes of application, a council can specify local classes of VicSmart application for any class of application in a zone, overlay or particular provision in the planning scheme.

The local VicSmart applications will be listed in the schedule to Clause 94. Council can either use the information requirements and decision guidelines specified in Clause 93 or it can specify new information requirements and decision guidelines in the schedule to Clause 95 for each local VicSmart application.

Changes to Section 7(5) Ministerial Direction

The new Clauses 90 to 95 and two new schedules namely schedules to Clauses 94 and 95 have been introduced into the Ministerial Direction on *The Form and Content of Planning Schemes*.

Every planning scheme must include Clauses 90 to 95 (inclusive).

Changes to the Planning and Environment Regulations

The Planning and Environment Regulations have been amended to:

- prescribe a time of 10 business days after which an application for review of a failure to grant a permit for a VicSmart application may be made

- prescribe a time of five business days within which a responsible authority may require further information and stop the statutory clock. The clock will restart at zero from the time the requested information is given to the responsible authority
- require the responsible authority to specify in the planning register whether an application is a VicSmart application
- insert a definition of a 'VicSmart Application'.

The prescribed times for an applicant to apply for a review of a refusal, conditions in a permit and extension of time request will be the same as those for a regular permit application.

How does the introduction of VicSmart affect existing permit applications?

The introduction of VicSmart does not change the permit triggers under the planning scheme. A development that required a permit before the introduction of VicSmart will still need a permit.

However, the introduction of VicSmart may affect how an existing application is assessed and the timelines for making that assessment. This will depend on whether the application becomes a 'VicSmart application'.

An existing application will become a VicSmart application if it meets the criteria in Clause 91 of the VicSmart provisions.

If the application meets the criteria, it must be assessed as a VicSmart application. This means that:

- the notice requirements of section 52(1) of the *Planning and Environment Act 1987* (Act) do not apply
- third party review rights in section 82(1) of the Act do not apply
- some decision making considerations in sections 60(1) and 84B(2) of the Act do not apply
- the Chief Executive Officer of the council or delegate is the responsible authority for the application.

It also means that the statutory times for VicSmart applications apply. Therefore:

- if the responsible authority requests further information under section 54 of the Act, the 'statutory clock' will stop only if the request is made within 5 business days from when the responsible authority received the application
- the applicant may apply for review of a failure to grant a permit once 10 business days have elapsed from when the responsible authority received the application.

IMPORTANT: The relevant date for calculating the '5 business days' and '10 business days' is the date the responsible authority **received the application**, not the date that VicSmart was introduced.

Summary of the 12 new classes of State VicSmart applications

Class of application	Where this applies
<p>1 Subdivide land to realign the common boundary between two lots where:</p> <ul style="list-style-type: none"> the area of either lot is reduced by less than 15 percent; and the general direction of the common boundary does not change. 	<p>All residential zones All industrial zones All commercial zones Capital City Zone Docklands Zone</p>
<p>2 Subdivide land into lots containing an existing building or car parking space where the development on the land has been:</p> <ul style="list-style-type: none"> approved under the planning scheme; and completed in the past five years. 	<p>All residential zones (except the Low Density Residential Zone) All industrial zones All commercial zones Capital City Zone Docklands Zone</p>
<p>3 Subdivide land into two lots where:</p> <ul style="list-style-type: none"> the development on the land has been approved under the planning scheme and has commenced; and the subdivision does not create a vacant lot . 	<p>All residential zones (except the Low Density Residential Zone) All industrial zones All commercial zones Capital City Zone Docklands Zone</p>
<p>4 Construct or extend a front fence in a residential zone.</p>	<p>All residential zones (except Low Density Residential Zone)</p>
<p>5 Construct a building or carry out works with an estimate cost of up to \$50,000 where:</p> <ul style="list-style-type: none"> the land is not within 30 metres of land (not a road) which is in a residential zone. (This does not apply in a Capital City Zone or Docklands Zone) must not be for a purpose listed in the table to Clause 52.10 the building and works is not associated with a dwelling in a Mixed Use Zone. 	<p>Mixed Use Zone All industrial zones All commercial zones Capital City Zone Docklands Zone</p>
<p>6 Construct a fence in an overlay.</p>	<p>Environmental Significance Overlay Significant Landscape Overlay Design and Development Overlay</p>
<p>7 Remove, destroy or lop one tree.</p>	<p>Environmental Significance Overlay Vegetation Protection Overlay Significant Landscape Overlay Neighbourhood Character Overlay</p>

Class of application	Where this applies
<p>8 The following applications under a Heritage Overlay:</p> <ul style="list-style-type: none"> • subdivide land as in classes 1, 2 and 3 above • demolish or remove an outbuilding • demolish or remove a fence • externally alter a non-contributory building • external painting • construct a fence • construct a carport, garage, pergola, verandah, deck, shed or similar structure • construct or install domestic services normal to a dwelling • construct or install a non-domestic disabled access ramp • construct a vehicle cross-over • construct a domestic swimming pool or spa and associated mechanical equipment and safety fencing • construct a rainwater tank • construct or display a sign • lop a tree • construct or install a solar energy facility attached to a dwelling. 	Heritage Overlay
<p>9 The following applications in an Special Building Overlay:</p> <ul style="list-style-type: none"> • subdivide land as in classes 1, 2 and 3 above • construct a building or construct or carry out works. 	Special Building Overlay
<p>10 Display a sign.</p>	All industrial zones All commercial zones Capital City Zone Docklands Zone
<p>11 Reduce the required number of car parking spaces by no more than five car spaces.</p>	All zones and Parking Overlay
<p>12 Reduce or waive the loading and unloading requirements.</p>	All zones

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