

# Making an Application for a Dwelling in a Residential Zone

Planning Practice Note 16

JANUARY 2018

The purpose of this practice note is to help applicants make a planning permit application for one or more dwellings or a residential building. It provides advice on:

- the things to look for in the planning scheme that may affect your application
- the operation of the residential development provisions
- information that needs to be provided with the application under the residential development provisions.

## Residential provisions in the planning scheme

Your application must address all relevant parts of the planning scheme, including:

- any relevant state policies contained in the State Planning Policy Framework (SPPF)
- the local policy context contained in the Local Planning Policy Framework (LPPF), which is made up of a Municipal Strategic Statement (MSS) and Local Planning Policies (LPP)
- the purpose and requirements of the zone applying to the land
- the purpose and requirements of any overlay applying to the land
- the residential development provisions in Clause 54 or Clause 55.

Before starting to prepare your application, it is essential that you understand all of the policies and provisions applying to the land and how these will affect council's consideration of your application.

## How do the residential development provisions work?

### Clauses 54 and 55

The residential development provisions are found in the Particular Provisions of all planning schemes and include Clause 54 and Clause 55 (sometimes referred to as ResCode).

### Clause 54

Clause 54 contains the requirements that apply to any planning permit application for one dwelling on a lot if a permit is required under the provisions of:

- a residential zone (other than the Low Density Residential Zone)
- the Neighbourhood Character Overlay if the land is in a residential zone (other than the Low Density Residential Zone).

### Clause 55

Clause 55 applies to an application for two or more dwellings on a lot or a residential building in a residential zone (other than the Low Density Residential Zone). Clause 55 is similar to Clause 54 except that it includes additional requirements that apply to applications to develop more than one dwelling on a lot.

Both Clause 54 and Clause 55 are structured to follow the decision-making process; beginning with broad 'macro' planning issues and ending with detailed 'micro' issues such as fence design.



## Objectives, standards and decision guidelines

All applications for one or more dwellings must meet a set of objectives in Clauses 54 or 55. The objectives aim to achieve residential development that:

- respects neighbourhood character
- protects amenity
- is sustainable.

The **objectives** describe the desired outcome to be achieved in your completed development. Your development must meet all of the objectives of the clause.

Each objective contains a **standard**.

A **standard** contains the requirements to meet the objectives. A standard should normally be met. However, if the responsible authority is satisfied that an application for an alternative design solution meets the objectives, the alternative design solution may be considered.

If you develop an alternative design solution that meets the relevant objective, make sure you consider the effect of the design solution on the other objectives and standards that apply.

Council can vary some standards of Clauses 54 and 55 by using the schedule to the residential zone or through a Neighbourhood Character Overlay or other overlay.

If a zone or an overlay specifies a requirement of a standard different from a requirement set out in the clause, the requirement in the zone or the overlay applies.

Check the planning scheme for any local changes to the standards.

Most objectives have **decision guidelines**. The decision guidelines set out matters that help the council to decide if the objective will be met if an alternative design solution is used.

You should consider the decision guidelines to inform the design process.

## Neighbourhood and site description and design response

An application must be accompanied by:

- a neighbourhood and site description
- a design response.

A neighbourhood and site description accurately describes the features or characteristics of the neighbourhood and the site. It provides the basis for:

- you to develop a design that meets the objectives
- council's assessment of the design.

The design response shows how the design has been arrived at and the decisions that have been made at the design stage of the proposal.

## Steps for making a planning application for one or more dwellings or a residential building

The key steps for preparing a planning application are:

### 1. Check the planning scheme and title details

At the outset, always check what the planning scheme says about the land. This is essential information that you will need to take into account when preparing your application. For example, the policy framework may identify areas where council wants to achieve a preferred neighbourhood character.

Find out the requirements of:

- the policy framework – the SPPF and LPPF
- the zone and schedule
- any overlay and schedule
- relevant particular provisions
- any restrictions on the land such as easements, restrictive covenants or section 173 agreements.

### 2. Talk to council

You should discuss the application with council before it is lodged. Putting time into pre-application consultation can save time and money later. Where possible, arrange a meeting on-site to discuss your proposal with council.

Meeting with council can help you to understand the:

- opportunities and limitations of the site
- new provisions and local policies and the implications of the zoning of the land
- features of the neighbourhood that should be carried forward in your design
- approach council has taken to similar applications.



You can also use pre-application consultation to agree on the extent of the neighbourhood that needs to be described in the neighbourhood and site description.

Pre-application consultation with council can identify any fundamental problems with your proposed design approach in relation to the residential development provisions or LPPF. However, general advice about your design approach should not be mistaken for 'in principle' support for your development. The role of council is to assess whether your development will achieve the outcomes sought by its planning scheme, taking into account any comments of neighbours and referral authorities.

### **3. Seek professional advice**

The planning and design process is complicated and sophisticated. Council can help you understand its requirements and expectations for the development but it is not council's role to prepare your application for you. If you are unclear about the information required or the design approach to take, you should get independent professional help from a planning or design consultant. They can interpret the requirements of the planning scheme, talk to council, identify the neighbourhood and site features and develop a design solution that meets your and council's needs. This can save you time and money and means that council can focus on assessing the application.

### **4. Talk to the neighbours**

It is a good idea to discuss the initial proposal with the neighbours. This way you can find out what their concerns might be and design your development to address these.

Involving the neighbours early in the process may avoid objections and review to the Victorian Civil and Administrative Tribunal (VCAT).

## **5. Prepare the neighbourhood and site description**

Your application must include a neighbourhood and site description. A neighbourhood and site description accurately describes the features or characteristics of the neighbourhood and the site. It may use a plan, photographs or other techniques.

A neighbourhood and site description is not a justification for a preconceived design. It is a factual record of the physical features of the neighbourhood and the site. Therefore, the description should be impartial and describe both the positive and negative features of the neighbourhood and the site.

### **What information should be provided in a neighbourhood and site description?**

Clauses 54.01 and 55.01 in the planning scheme set out the information that you must provide in a neighbourhood and site description.

*Planning Practice Note 43: Understanding Neighbourhood Character* provides detailed information about how to identify key neighbourhood character features.

The following tables ask questions to prompt your thinking about how the features identified in the neighbourhood and site description may influence your design response.



**In relation to the neighbourhood**

Information to be provided	Influence on design response
<p>The pattern of development of the neighbourhood.</p> <p>The built form, scale and character of surrounding development including front fencing and front setbacks.</p> <p>Architectural and roof styles.</p> <p>Any other notable features or characteristics of the neighbourhood.</p>	<p>Is there an obvious character to the neighbourhood in terms of height, bulk, setback, building detailing or garden character that can help influence or guide your design response?</p> <p>What design elements of the buildings in the neighbourhood should be responded to in your design?</p>

**In relation to the site**

Information to be provided	Influence on design response
Site shape, size, orientation and easements.	<p>How does the sun move across the site?</p> <p>How and where might buildings be sited to make best use of the site?</p>
Levels of the site and the differences in levels between the site and surrounding properties.	<p>Is the land higher than your neighbour's?</p> <p>What implications does this have, for example on visual bulk and overlooking?</p>
Location of existing buildings on the site and on surrounding properties, including the location and height of walls built to the boundary of the site.	What implications are there for your development, for example, in relation to limiting potential overlooking or overshadowing, or setbacks for landscaping?
The use of surrounding buildings.	Where might buildings be sited to avoid potential conflicts such as sources of noise adjacent to bedrooms?
The location of secluded private open space and habitable room windows of surrounding properties which have an outlook to the site within nine metres.	What implications does the location of your neighbour's private open spaces and habitable room windows have for your design?
Solar access to the site and to surrounding properties.	How and where might buildings be sited to allow sunlight into living areas and private open space?
Location of significant trees existing on the site and any significant trees removed from the site in the 12 months prior to the application being made, where known.	Are there any significant trees that contribute to the neighbourhood character or could be used to advantage in your design, for example, as screening or seasonal shading?
Any contaminated soils and filled areas, where known.	Can your design overcome these site constraints? How?
Views to and from the site.	How can views be used to advantage in your design?
Street frontage features such as poles, street trees and kerb crossovers.	Where is potential access to your site? Where do the neighbours access their site? What are the street parking conditions?
The location of local shops, public transport services and public open spaces within walking distance.	How does the location of these facilities influence your development?
Any other notable features or characteristics of the site.	Are there any other notable features that should influence your development?



You and council will need to agree on the area of the neighbourhood that needs to be described, as this provides the context for decisions about the design. In most cases, about five sites or buildings up and down the street, across the street and behind the application site should be sufficient to identify the features of the neighbourhood, if any, that should influence the design.

The pre-application meeting with council is a good time to agree on the extent of the neighbourhood that needs to be described in the neighbourhood and site description.

### How do I go about preparing a neighbourhood and site description?

- First, talk to council about the relevant neighbourhood and site description requirements. The council will be able to advise you of any other planning scheme requirements affecting your development.
- Document the physical features of the neighbourhood and the site on a plan, noting particular aspects that will be important to acknowledge in developing your design.
- Photograph the neighbourhood and the site context. Use photos as part of the supporting documentation for your application.

To test whether the neighbourhood and site description is satisfactory, you should ask yourself the following questions.

- Does it describe all of the key features or characteristics of the neighbourhood that are required to be described?
- Does it describe all of the key features and characteristics of the site that are required to be described?
- Is the area covered by the description sufficient to determine neighbourhood character?
- Is the description accurate?

### What if some of the requirements are not relevant?

You can ask council to reduce or waive a requirement of the neighbourhood and site description if it seems that the information is not relevant to the evaluation of the application. The information is being gathered to inform the design process and not for the sake of gathering it. Discuss the neighbourhood and site description with council to confirm the information required.

### Who decides if the neighbourhood and site description is satisfactory?

Council must decide if the neighbourhood and site description is satisfactory before considering the application further or requiring notice of the application to be given.

If council decides that the neighbourhood and site description is not satisfactory, it can request more information under section 54 of the *Planning and Environment Act 1987*.

If more information is requested, discuss what is required with council to make sure that you understand what is needed. Any further information request may affect the design response and final design. Therefore you should test the design response against the new information required.

This kind of delay can be avoided by proper pre-application consultation with council and use of professional help.

### 6. Prepare the design response

An application must be accompanied by a design response. The design response must explain how the proposed design:

- derives from and responds to the neighbourhood and site description. It involves evaluating the influence that features identified in the description should have on the design
- meets the objectives of the clause
- responds to any neighbourhood character features for the area identified in a local planning policy or a Neighbourhood Character Overlay.

The design response is generally presented as a plan with notations showing how the proposed design relates to any other dwelling on the site and to the surrounding development and neighbourhood. It may also include a written statement. The design response must include correctly proportioned street elevations or photographs showing the development in the context of adjacent buildings.

### Key steps in preparing your design response

When preparing a design response, you should follow these steps:

- decide what features of the neighbourhood character you should respond to
- decide what features of the site and neighbouring sites you should respond to



- decide how you will respond to these features and any other issues you have identified, taking into account the objectives and any relevant local planning policy
- discuss your proposed building envelope and its implications with council before starting the detailed design
- test your design response against the neighbourhood and site description and any features identified for the area in the LPPF or a Neighbourhood Character Overlay. Have you adequately responded to the key features? How?
- test your design response against the objectives. Have you met the objectives? How?

### 7. Prepare the detailed layout and elevation plans

Prepare the detailed layout and elevation plans based on the design response and the policies, objectives and standards of the planning scheme. If the design does not meet a standard and an alternative design solution that meets the objectives is required, discuss the design solution with council before finalising the plans.

If provisions other than residential development provisions apply to the site make sure your design also responds to the requirements of those provisions.

### 8. Assemble your application

Your application should consist of the following:

- completed application form
- application fee
- current copy of title including any covenants or section 173 agreements
- written statement that describes how your development responds to any relevant policies in the SPPF and LPPF, meets the objectives in Clauses 54 or 55 (if this cannot be clearly shown in the design response) and meets the objectives of any overlay applying to the land
- a neighbourhood and site description
- design response (a plan and, if required, a written statement), including correctly proportioned street elevations or photographs showing your development in the context of adjacent buildings
- detailed layout and elevation plans (usually three copies)

- any additional information necessary to enable council to assess your application. This may include:
  - infrastructure capacity details
  - shadow diagrams
  - explanation of energy efficiency measures
  - landscape plan, including details of landscape themes, vegetation, paving and lighting.

Council must be satisfied that the neighbourhood and site description is adequate before the application can proceed. If you are not confident that the neighbourhood and site description and your design response will be acceptable to council, you should confirm it with council before preparing the detailed design proposal.

Talk to the council to find out all of the information that is required.

### Where can you get more information?

More information is available on the department's website.

Information about making a planning application is available in:

- web pages about making a planning application
- Chapter 3 of *Using Victoria's Planning System*
- Other practice notes about residential development:
  - *PPN43: Understanding neighbourhood character*
  - *PPN15: Assessing a Planning Application for One or More Dwellings in a Residential Zone*
  - *PPN27: Understanding the Residential Development Standards (ResCode)*
  - *PPN40: Using the Residential Subdivision Provisions – Clause 56 – Residential Subdivision*
  - *PPN78: Applying the Residential Zones.*

Find out what zone and overlay(s) apply to your property by using the Planning Property Report.

View your planning scheme on the department's website at Planning Schemes Online.



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ISBN 978-1-922250-12-4 (pdf/online)

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