

Practitioner's Guide to Victoria's Planning Schemes

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Version 8

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WORK

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Acronyms

In this guide, the following key terms are abbreviated as follows:

- **The Act** The *Planning and Environment Act 1987*
- **MPS** Municipal Planning Strategy
- **PPF** Planning Policy Framework
- **PPN** Planning Practice Note
- **VPP** Victoria Planning Provisions

Glossary

In this guide, the terms below are defined as follows:

- **provision** - Any provision in a planning scheme, whether a policy or a requirement
- **parent provision** - A VPP provision in a planning scheme (as opposed to a local schedule provision)

Note to Version 8

This guide is made available now as Version 8 to assist practitioners who need to prepare or consider new planning scheme provisions. The guide will be updated to respond to changes to Victoria's planning system and feedback provided by users. If you have any feedback, you are encouraged to send your comments to planning.systems@transport.vic.gov.au.

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Preface

Planning schemes are the primary tool to enable state and local government land use planning policies to be implemented and effect positive change to the built environment.

The efficiency and effectiveness of planning schemes is important to Victoria's economy and liveability. Each year the planning system processes around 55,000 planning permit applications, which represents around \$30 billion of future investment in Victoria.

The *Victoria Planning Provisions* (VPP) is the template on which Victoria's planning schemes are based. The VPP sets standardised planning scheme provisions that are designed to implement the six principles for planning schemes in Victoria set out in Chapter 2.3:

- User focused
- Consistent
- Proportional
- Land use focused
- Policy and outcome focused
- Digital ready

This guide helps practitioners implement these principles in the formulation and drafting of planning scheme provisions.

The guide sets out key rules for practitioners when preparing a planning scheme provision. These rules complement existing directions and guidance and seek to ensure that:

- The intended outcome is within the scope of the objectives and power of the Act and has a sound basis in strategic planning and policy.
- A provision is necessary and proportional to the intended outcome and applies the VPP in a proper manner.
- A provision is clear, unambiguous and effective in achieving the intended outcome.

1 Using this guide

1.1 Who this guide is for

1.2 Other useful documents

1.1 Who this guide is for

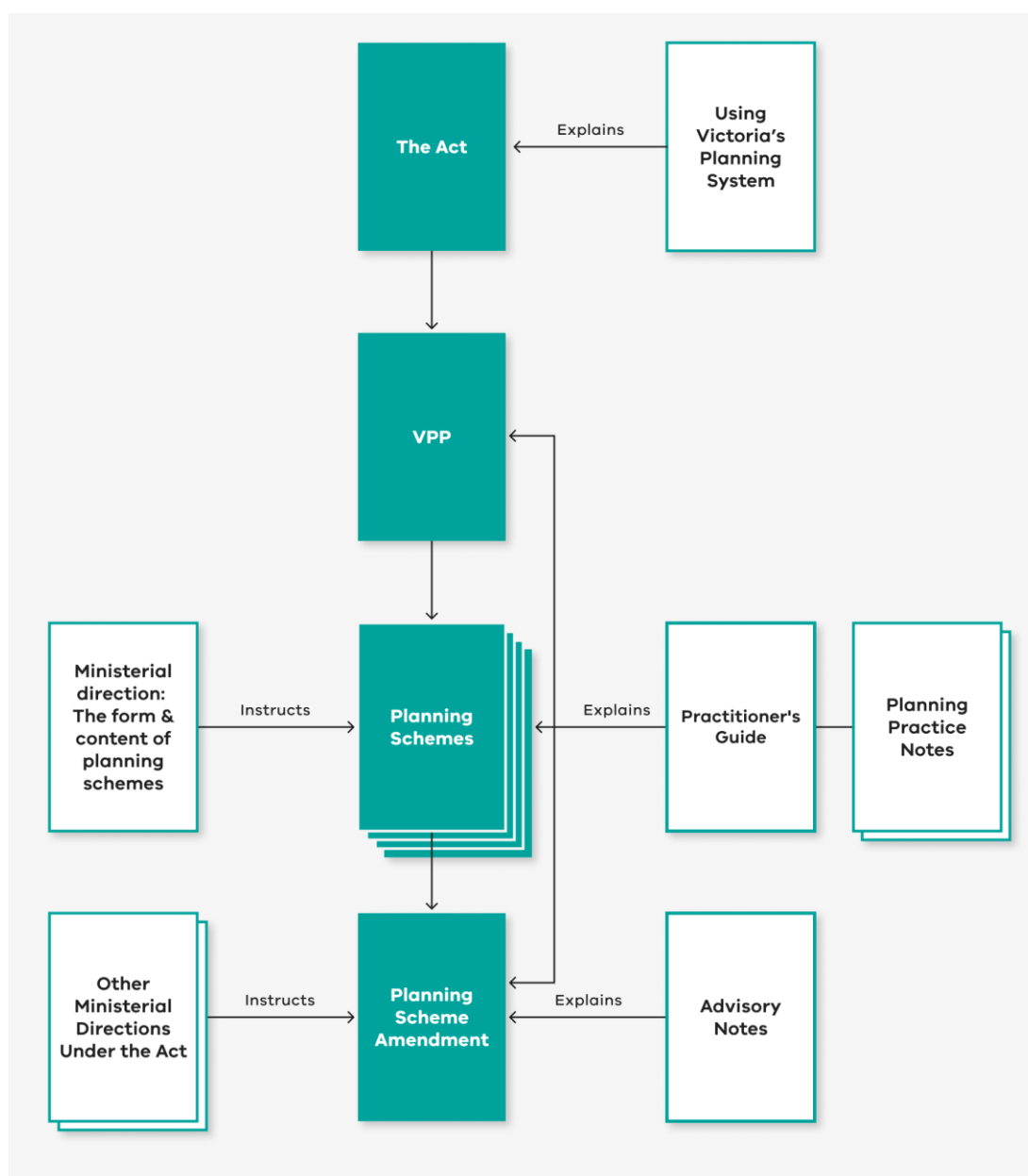
The guide applies to the preparation and application of a planning scheme provision in Victoria. It is primarily intended for use by practitioners considering or preparing a new or revised provision for a planning scheme.

The guide explains:

- The principles that should underpin the creation, selection and application of a planning scheme provision.
- How a planning scheme relates to the VPP.
- Rules and advice about how the various components of a planning scheme operate.
- How to select, write and apply various elements of a planning scheme.

1.2 Other useful documents

The guide should be read in conjunction with the other documents that give instruction or advice about preparing and using planning scheme provisions. Diagram 1 shows how the various documents about the VPP, planning schemes and planning scheme amendments relate to each other.

Diagram 1 - Planning System Documents

Using Victoria's Planning System gives information about how the planning system and various planning processes work. It includes an explanation of the planning scheme amendment process – the process by which any provision prepared using this guide will be introduced.

The *Ministerial Direction - The Form and Content of Planning Schemes* sets out instructions about how planning schemes are constructed and provides templates for local provisions.

Planning Practice Notes give technical advice about the planning system, each dealing with separate aspects of the system.

Planning Advisory Notes give point-in-time information about a change to the planning system, particularly relating to VC Amendments.

2 The VPP and planning schemes

- 2.1 Planning schemes and legislation
- 2.2 What is the VPP?
- 2.3 The VPP principles
- 2.4 How a planning scheme is created from the VPP
- 2.5 The elements of a planning scheme

2.1 Planning schemes and legislation

The Act establishes the statutory framework for Victoria's planning system, including objectives for planning and the planning framework established by the Act. It provides the machinery that gives effect to state planning policies.

The planning system and planning schemes in particular, are important tools that enable land use strategies to be implemented and effect positive change to the built environment. However, the planning system alone cannot provide for all desired outcomes.

The drive to implement an increasing range of outcomes through planning schemes (such as local policies that address social issues or energy efficiency) is challenging the traditional scope of planning and its relationship to other regulatory systems. This is particularly so given that not all controls about the use and development of land are controlled by planning schemes.

Legislation other than the Act can have a significant regulatory impact on use and development, such as the *Building Act 1993*, the *Heritage Act 2017*, the *Liquor Control Reform Act 1998*, *Road Management Act 2004* and the *Water Act 1989*.

For efficient regulation that avoids conflict and duplication, the introduction of any new planning provision must be considered in the context of the wider landscape of available legislation.

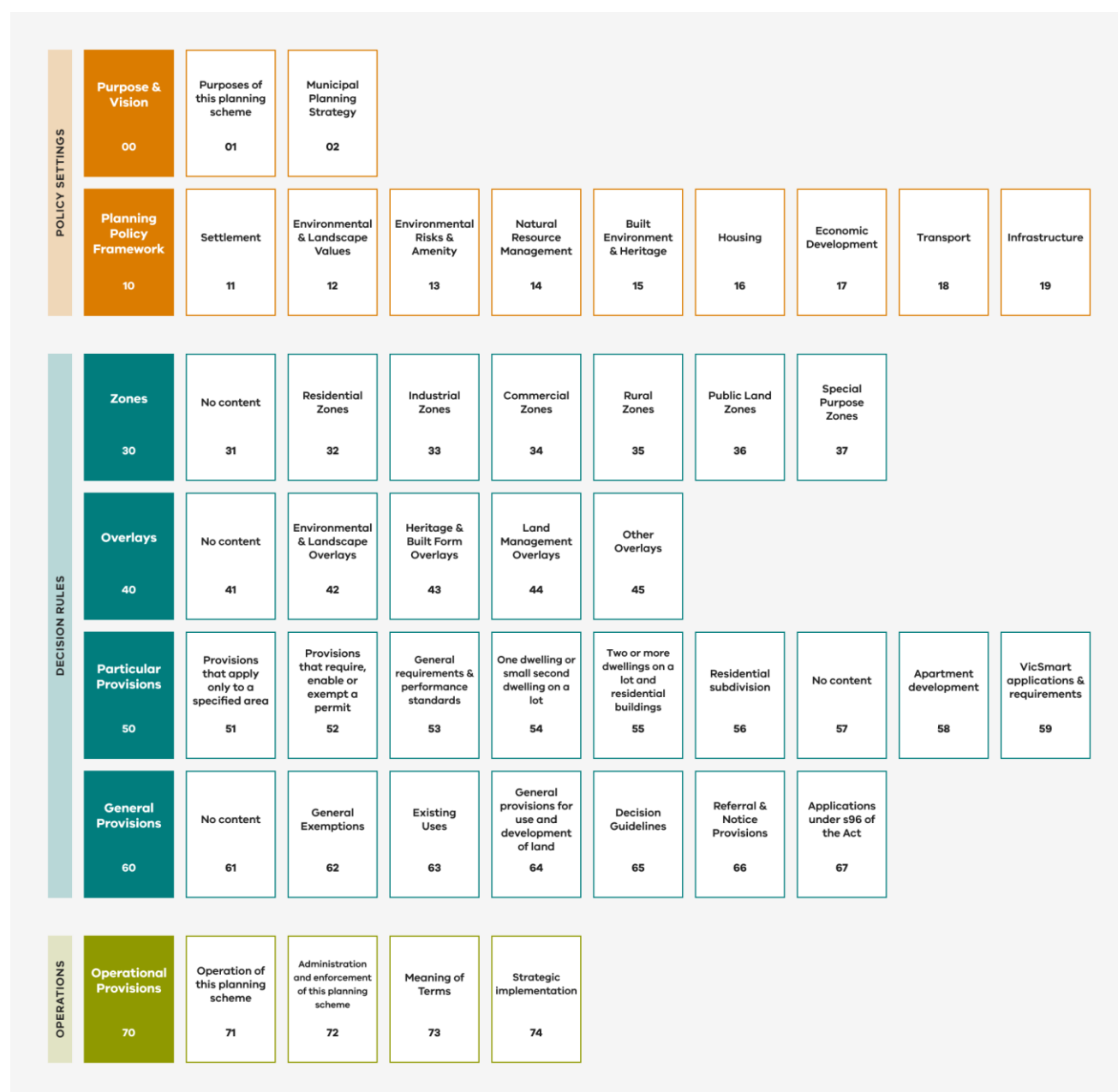
2.2 What is the VPP?

The VPP is established under Part 1A of the Act as a statewide reference document or template from which a planning scheme or planning scheme provision must be sourced or constructed.

The VPP is not a planning scheme and does not apply to any land. It is a statutory device to ensure that consistent provisions for various matters are maintained across Victoria and the construction and layout of planning schemes is always the same.

The VPP contains a complete set of standard planning provisions for Victoria and provides the standard format (including clause numbering) for a planning scheme.

The structure of a planning scheme is shown in Diagram 2.

Diagram 2 - The structure of a planning scheme

2.3 The VPP principles

The six principles for the VPP are set out below. They describe the ideals against which the benefits and implications of any proposed change to the VPP and planning schemes should be measured.



Digital first

Provisions are optimised for efficient access and processing of planning information, including through better technology, digital interfaces and the user experience, to move from document driven to database driven planning schemes.



User focused

Provisions are user focused and provide transparent and understandable pathways to navigate the planning approval process. Planning schemes are structured so users can easily and intuitively access relevant information, using spatial means wherever possible.



Consistent

Provisions are written and applied in a logical and consistent way, regardless of the content, so that a provision is easily understood and applied. Drafting rules and technology ensure that new and amended provisions are created in a way that maintains integrity of the system and delivers the desired policy outcomes.



Proportional

Provisions and approval processes only impose a level of regulatory burden proportional to the planning and environmental risk of the proposal. Simple and low risk applications are assessed against objective criteria through a code assessment process.



Land use focused

Provisions focus on land use and development and do not conflict with or duplicate other legislation and regulatory instruments.



Policy and outcome focused

Provisions ensure requirements have a clear policy basis and are planning outcome driven. Technology and information data is applied to achieve strategy clarity and to create and apply requirements in a precise way.

2.4 How a planning scheme is created from the VPP

The *Ministerial Direction - The Form and Content of Planning Schemes* applies to the form and content of all planning schemes and any amendment to a planning scheme.

A planning scheme must be prepared and presented in accordance with the style guide set out in Annexure 1 of the Ministerial Direction and be written in plain English.

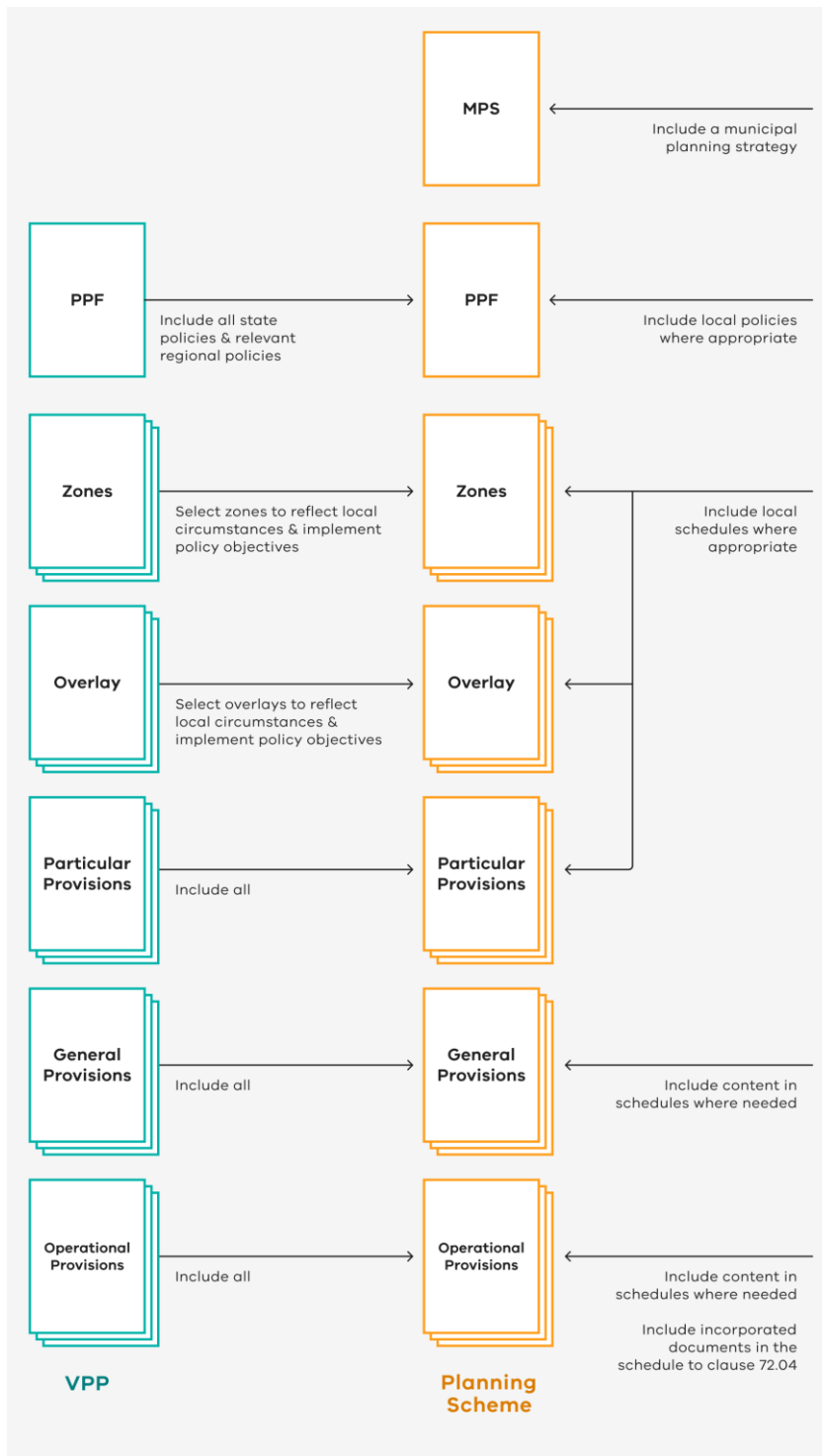
A planning scheme is constructed by taking the VPP as a basic template and:

- including a Municipal Planning Strategy (MPS)
- including any relevant regional policies and appropriate local planning policies into the Planning Policy Framework (PPF)
- selecting and including the zones and overlays needed to both reflect local circumstances and implement planning policy objectives
- including appropriate content in schedules to the zones, overlays and some particular provisions to achieve local planning policy objectives
- including appropriate content in the schedules to the General Provisions and the Operational Provisions (including listing any incorporated documents in the schedule to clause 72.04).

A planning scheme must not include a provision other than a provision selected from or enabled by the VPP.

An amendment to a provision of the VPP will also amend any planning scheme that includes the provision. When a VPP amendment is approved, all affected schemes are amended at the same time.

Diagram 3 - Creating a planning scheme



2.5 The elements of a planning scheme

The main elements of a planning scheme and their function are described in Table 1 below. The headings in a planning scheme provision will reflect the elements relevant to the purpose of the provision.

Table 1: Elements of a planning scheme

Planning scheme element	Function
Policy	Sets out the strategic basis for the exercise of discretion under other provisions.
Purpose	States the purpose of a provision and the planning outcomes it seeks to achieve. This guides a user to the correct application of a provision.
Application	Specifies the area or classes of use or development a provision applies to.
Objective	Specifies the outcomes sought to be achieved by a provision. Objectives can be general or specific to a particular class of use or development regulated by a provision.
Permit requirement	Specifies classes of use and development that must obtain a planning permit.
Requirement	Specifies the limits of a discretion or right under a provision or the conditions under which it must be exercised. Requirements can include: • built form requirements (such as height or garden area) • requirements to include a condition on a particular type of permit (<i>section 62(1)(a) of the Act</i>) • procedural requirements such as for (<i>section 6(2)(hb) of the Act</i>): ○ VicSmart applications ○ Exemption from notice and review ○ Specific notice requirement settings (<i>sections 52(1)(c), 52(4) and 52(5) of the Act</i>) ○ Referral requirement.
Standard	Specifies an outcome or level of performance that is considered acceptable having regard to the objectives of a provision. A standard can be quantitative or qualitative. In some cases, a standard can be linked to an objective, so that if the standard is met the objective is deemed to be met.
Application requirement	Specifies the information that must accompany a class of application for a planning permit or a request for approval. These requirements should be proportionate to the planning risks associated with an activity and derive from the objectives, standards or decision guidelines relevant to the discretion being exercised.

Planning scheme element	Function
Decision guideline	Sets out, in policy neutral terms, matters that, if relevant, should be considered by the decision-maker when exercising a discretion.
Meaning of terms	In addition to the Act, the planning scheme lists definitions for common terms used in decision making, including general, land use and sign terms.

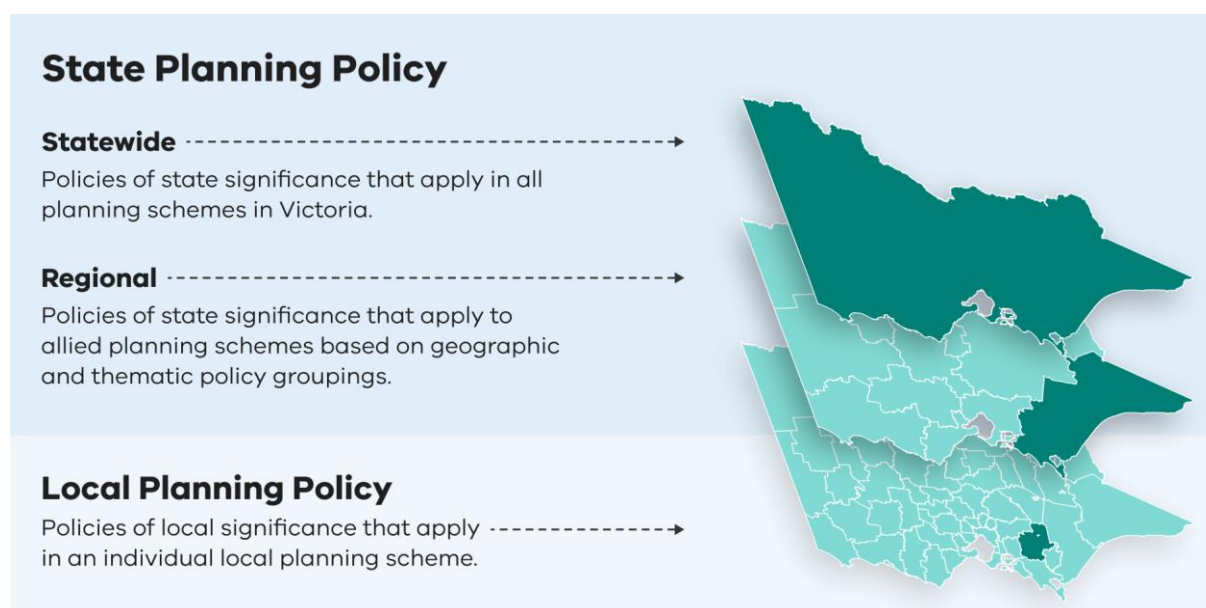
3 How provisions work

- 3.1 How policy works
- 3.2 How a zone works
- 3.3 How an overlay works
- 3.4 How a particular provision works
- 3.5 How the general provisions work
- 3.6 How the operational provisions work
- 3.7 How the land use terms work

3.1 How policy works

The PPF is the policy content of a planning scheme and provides a context for spatial planning and decision making by planning and responsible authorities.

The PPF comprises clauses 10 to 19 of the planning scheme and is a single integrated policy source that includes state content in the form of statewide and regional planning policy and local content in the form of local planning policy.



The policy content in the PPF is complemented by the MPS. The MPS outlines the planning outcomes the municipality seeks to achieve that will be implemented by the policies and requirements of the planning scheme.

The MPS sits outside the PPF at clause 02 of the planning scheme. The PPF and the MPS together form the strategic foundation of the planning scheme.

A planning authority must take into account the MPS and the PPF when preparing an amendment to a planning scheme. A responsible authority must also take into account and give effect to the MPS and objectives and strategies of the PPF when it makes a decision.

A planning policy applies to all land in the planning scheme unless the policy specifies otherwise.

A planning policy may include policy guidelines. Policy guidelines indicate how an objective can be met and how a strategy can be implemented. A responsible authority must take a relevant policy guideline into account when it makes a decision, but is not required to give effect to it. If the responsible authority is satisfied that an alternative approach meets the policy objective, the alternative may be considered.

A planning policy may include reference to a policy document. A policy document may be an incorporated, background or other document such as an Act.

3.2 How a zone works

Zones are the primary tool for guiding the fair and orderly use and development of land. A zone sets expectations about what land use and development activity is or may be acceptable. Each zone broadly deals with a particular predominant land use theme, such as residential, commercial, industrial or public land uses.

Zones are applied spatially and all land must be included in a zone, except Commonwealth land which is not covered by a planning scheme. The zone selected for any land is determined by the historic land use and the planning strategies set out in the planning scheme.

Each zone contains purposes that describe the planning outcome sought by the zone. These purposes are achieved through the application of the controls on use and development in the zone.

The use of land is controlled by the 'Table of uses' in the zone. This table places particular land uses in one of three categories:

- **Section 1** – Permit not required
- **Section 2** – Permit required
- **Section 3** – Prohibited

The table may include a condition next to a land use that must be met. If the condition is not met, a more restrictive land use category will apply to the use.

Zones also controls development by requiring a planning permit for specified types of development. Some zones seek to promote a specific outcome by exempting a preferred form of development from the need for a permit. Some zones may include mandatory requirements, such as a maximum building height.

A zone may require certain information to be provided with a particular type of planning permit application.

Where a permit is required, the zone may exempt certain types of application from the notice and review requirements of the Act.

Zones include decision guidelines that apply generally or to a specific type of application. In addition to the decision guidelines of clause 65 of the planning scheme, these decision guidelines must be taken into account by the responsible authority when it makes a decision about the application.

Each zone also specifies the sign category that applies to the land.

Some zones allow the planning authority to set specific objectives for the zone through a statement in a schedule to the zone. These objectives may be general or may relate to a specific matter, such as building design.

A zone may have a schedule that enables a planning authority to specify certain use and development controls or standards to achieve local planning objectives.

Placing a zone boundary

A zone boundary should align with title boundaries or other clearly defined feature such as a road centreline or watercourse.

The planning scheme does not generally contain special provisions for land in more than one zone. The exception being clause 64.03 that deals with the subdivision of land in more than one zone. If land is in more than one zone, the provisions of each zone apply to that part of the land included in the zone.

3.3 How an overlay works

An overlay is a complementary planning control to the zone. Unlike zones, that deal primarily with the broader aspects of the use and development of land, an overlay generally seeks to control a specific aspect of the development of land.

Overlays control a broad range of development matters such as the protection of vegetation or heritage values, the design of built form or mitigating flood risk. Some overlays can also specify requirements for the use of land. The application of an overlay may reflect a policy objective in the scheme or a condition of the land.

While a parcel of land will always be included in a zone, it will only be affected by an overlay where a specific development outcome is sought for that land. Land can be subject to more than one overlay.

Each overlay contains purposes that specify the planning outcome sought by the overlay. These purposes are achieved through the application of the controls in the overlay.

An overlay may also contain application requirements, notice and review exemptions and decision guidelines.

An overlay may include a schedule that enables more specific local objectives, purposes or requirements for specified land. The schedule may also specify development that requires planning permission, is exempt from the permit requirements or is prohibited. Schedules must meet the requirements of the *Ministerial Direction - The Form and Content of Planning Schemes*.

An overlay may require permission for or prohibit development that is allowed by the zone. Neither control takes precedence over the other and both must be satisfied before a development can be carried out.

3.4 How a particular provision works

Particular provisions are planning controls that apply only to certain uses and development or to particular aspects of certain uses and development.

Particular provisions operate differently to zones and overlays in that they are issue-based, rather than land-based controls. They apply to a use or development irrespective of the zone or overlay that applies to the land.

The particular provisions apply consistently across the state; however, some particular provisions allow a planning authority to include local content through a schedule.

The particular provisions may include permit requirements, permit exemptions, prohibitions or development standards.

A particular provision also sets out the information requirements and decision guidelines for all classes of VicSmart applications.

Unless specified otherwise, the particular provisions apply in addition to the requirements of a zone or overlay.

3.5 How the general provisions work

The general provisions set out standard provisions about matters that benefit from a consistent treatment across all land. The general provisions include:

- General exemptions from planning control for a specified range of classes of use and development.
- Provisions about dealing with existing uses.
- Decision guidelines that apply to all applications.
- Requirements about referral and notice of applications.

Some general provisions have schedules for local requirements.

3.6 How the operational provisions work

The operational provisions set out provisions for the operation, administration and enforcement of the planning scheme. They include matters such as:

- The operation of the MPS, the PPF, zones, overlays, particular provisions and VicSmart applications.
- The commencement and application of the scheme, the effect of the scheme, who is the responsible authority for the scheme and what the scheme consists of.
- The meaning of words, including general terms, sign terms and land use terms.
- The strategic implementation of zones, overlays and particular provisions in relation to the PPF.
- The incorporated documents and background documents related to the scheme.

Some operational provisions have schedules that require information specific to the scheme to be included, such as when the scheme commenced.

3.7 How the land use terms work

Clause 73 sets out a list of terms that may be used to characterise a land use.

A land use term has the meaning set out next to it in the table.

Where a land use term does not have a defined meaning, it has its ordinary meaning. *The Macquarie Dictionary* is the preferred source to determine the ordinary meaning of undefined planning terms.

Terms may be included (or 'nested') within other terms, or may themselves include other terms. The relationship of how terms are nested is described visually in the nesting diagrams at clause 73.04.

A term describing a use of land must not be characterised as a separate use of land where the term is commonly or obviously included in one or more of the terms in the table.

4 Rules for introducing a planning scheme provision

4.1 The planning scheme rules

4.2 Entry rules

4.3 Application rules

4.4 Drafting rules

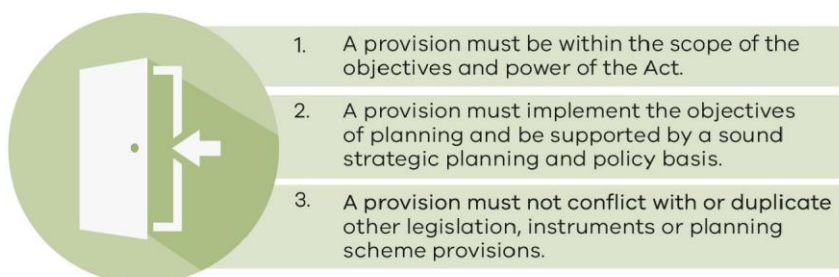
4.1 The planning scheme rules

This chapter sets out the rules that should be applied to the preparation of all new VPP and planning scheme provisions. These rules should be applied to all new provisions, both policy and controls.

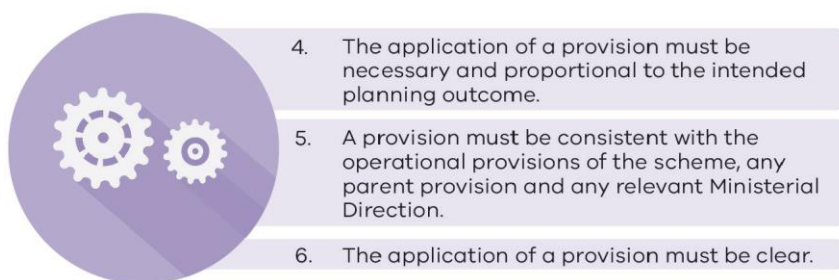
The rules are structured in three parts.

Diagram 4 - The planning scheme rules

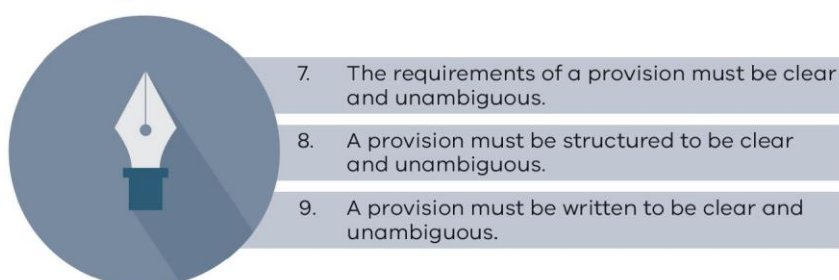
Entry Rules



Application Rules



Drafting Rules



The VPP principles set out in Chapter 2.3 describe a set of ideals for a modern planning scheme against which the benefits and implications of any proposed change should be measured. The rules seek to ensure that the VPP and planning scheme provisions are prepared in a manner that is consistent with their statutory framework and the VPP principles.

The entry rules seek to ensure the intended outcome sought by the provision is within the power of the Act and has a sound basis in strategic planning and policy. Part 2 of the Act provides the legislative framework for the preparation of planning schemes, which must be within the scope of its objectives and powers it confers on a planning authority. Local provisions in planning schemes must also be within the scope of the objectives and power provided by the relevant parent provision.

Ministerial Direction No. 11 - Strategic Assessment of Amendments requires a planning authority to consider how an amendment will implement the objectives of planning in Victoria and make proper use of the VPP. An evidence-based planning policy development process and an evaluation of strategic considerations should precede any decision to change the planning scheme and the drafting of provisions. *Planning Practice Note 46 - Strategic Assessment Guidelines* provides the framework for preparing and evaluating a proposed planning scheme amendment and its outcomes.

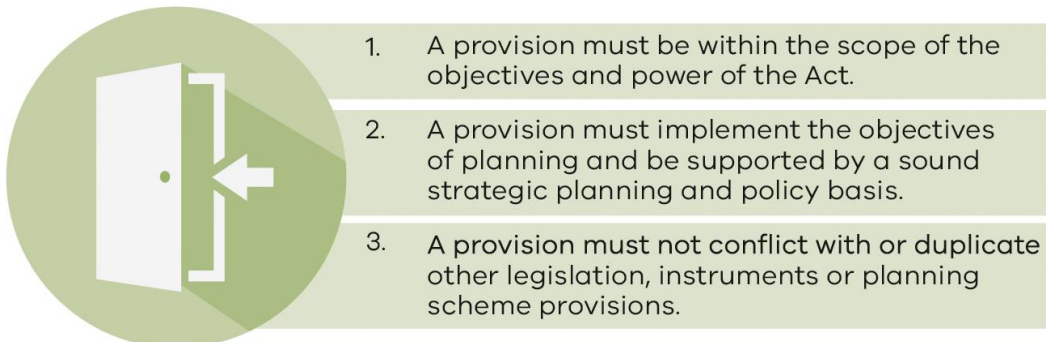
The application rules seek to ensure that an amendment to a planning scheme is necessary and proportional to the intended outcomes and applies the VPP in a proper manner.

Achieving greater consistency in the application and performance of planning scheme provisions is particularly important in aligning the VPP and planning schemes with the VPP principle of 'digital ready'. To successfully transition planning schemes from paper-based to data base driven information, it is essential the provisions are drafted to reinforce user expectations about their operation and effect.

The drafting rules seek to ensure that a provision is drafted clearly and unambiguously and will be effective in achieving the intended outcome. For a planning scheme to be effective, both legally and in meeting policy objectives, the intent and operation of all provisions must be clear. It is also important that anyone affected by a planning scheme can easily understand a provision and the obligations it imposes.

4.2 Entry rules

The intended outcome must be within the scope of the objectives and power of the Act and have a sound basis in strategic planning and policy.



RULE 1: A provision must be within the scope of the objectives and power of the Act.

A provision must:

- Be consistent with the Act and the VPP.
- Be relevant to the exercise of a discretion in the planning scheme.
- Relate to a land use or development matter.
- Be capable of being applied to a parcel of land.

The Act sets out the objectives of planning and the planning framework that define the scope of outcomes a planning scheme can seek to achieve. Part 2 of the Act sets out requirements for planning schemes, including matters that a planning scheme may or may not regulate, such as ensuring that the function of a provision is authorised by the matters set out in section 6 of the Act - *What can a planning scheme provide for?*

To ensure that provisions are legally effective and land use focused, take care to check that the subject matter of a provision is within the scope of the objectives and power conferred on a planning scheme by the Act.

RULE 2: A provision must implement the objectives of planning and be supported by a sound strategic planning and policy basis.

A provision must:

- Clearly set out its purpose and the intended planning outcome.
- Seek to implement the objectives of planning.
- Show an evidence based justification for the planning intervention.
- Be consistent with the MPS and PPF.
- Be relevant to an exercise of a discretion in the planning scheme.

Both *Ministerial Direction No. 11 - Strategic Assessment of Amendments* and *PPN 46 - Strategic Assessment Guidelines* seek to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces. The strategic considerations set out in these documents require an examination of the outcomes that a provision seeks to

achieve, including whether it implements the objectives of planning and implements state and local planning policy.

These considerations highlight the importance of clearly identifying at the start of the amendment process the intended planning outcomes and confirming that they can be properly achieved within the planning framework.

RULE 3: A provision must not conflict with or duplicate other legislation, instruments or planning scheme provisions

A provision must:

- Not conflict with or duplicate any other relevant legislation or planning scheme provision.

A principle of the VPP is that they are 'land use and development focused'. Planning provisions must avoid conflict and duplication with other related regulatory regimes, in particular where better technical expertise and resources reside elsewhere. Focusing provisions on land use and development issues not only provides for legally certain provisions that are within power, but also serves to better use the finite resources of the planning system.

The planning system performs an important role in integrating a range of policy considerations through land use and development regulation. It also plays a role in the coordination of permit approvals with related approvals and instruments issued under other statutory regimes. The subject matter and sequencing of permits and related approvals can sometimes overlap.

Provisions should be drafted so that they maintain the focus of the planning scheme on matters that need to be 'planned for' or 'designed in' to a land use or development proposal, so that any impacts can be properly mitigated into the future. Where another statutory regime regulates the same activity, or imposes specific requirements, it is not appropriate for a planning scheme to impose different requirements or to seek to enforce the requirements of the other regime through the planning system.

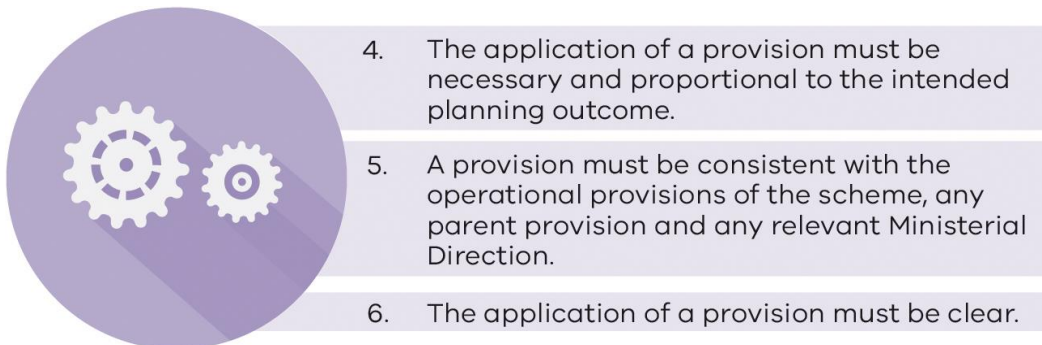
In some circumstances, it may be necessary to regulate an aspect or a particular class of development for different purposes under separate controls (such as buildings and works under both a zone and a Land Subject to Inundation Overlay). These requirements will each seek to achieve different objectives (such as neighbourhood character and flood risk mitigation). In some cases, these objectives may have the potential to conflict and the decision will need to be balanced by the responsible authority to achieve an overall outcome that is acceptable.

However, in many instances it will result in a similar planning outcome being achieved. For example, where a zone regulates or prohibits an aspect of development such as building height for neighbourhood character purposes, it may be unnecessary to impose an additional layer of control on building height through an overlay.

A provision should not repeat or contradict another provision within the planning scheme. However, some policies may have objectives that are in tension and deciding between them is a normal function of the planning system. Repetitive or contradictory policy for the same theme or area will confuse and weaken the ability to achieve an appropriate outcome.

4.3 Application rules

A provision must be necessary and proportional to the intended outcome and apply the VPP in a proper manner.



RULE 4: The application of a provision must be necessary and proportional to the intended planning outcome.

A provision must:

- Be necessary to achieve the intended planning outcomes, having regard to other possible means of implementation, including non-statutory initiatives.
- Impose a level of regulatory burden that is the minimum, necessary to satisfactorily address the planning and environmental risks.
- Where appropriate, implement a streamlined pathway of assessment.

The VPP principle of being ‘proportional’ means that a provision should be designed to only impose a level of regulatory burden that is proportional to the planning and environmental risk.

Where a change to the planning scheme is necessary, the VPP and its elements provide opportunities for planning authorities to apply alternative assessment pathways for simpler, lower risk proposals where a normal permit application process is not warranted. These alternative pathways can be more effective in achieving the intended planning outcomes and can reduce the administrative and economic burden on both responsible authorities and the community.

RULE 5: A provision must be consistent with the operational provisions of the scheme, any parent provision and any relevant Ministerial Direction.

A provision must:

- Be expressed in a manner that is consistent with the operational rules at clause 71.
- Be prepared in accordance with the *Ministerial Direction -The Form and Content of Planning Schemes* and any other relevant Ministerial Direction.
- Not include a matter outside the purpose or scope of a state standard provision.
- Only include a function that is enabled by the relevant state standard provision.

Clause 71 sets out operational requirements that apply to different provisions. These requirements are important in defining the effect of a provision and its relationship with other provisions in the planning scheme.

A provision should not be drafted in a manner that is contrary to its operational limits or in conflict with other provisions, such as a policy that seeks to prohibit a class of land use or development that is discretionary in a zone. This causes confusion about the intended effect of a provision.

Local provisions derive their power and scope from parent state standard provisions. A state provision may limit the functions a local provision can perform. To maintain the benefits of statewide consistency and ensure that local provisions are legally effective, they must be drafted so that their scope and functions do not exceed those of their parent provision.

For example, a schedule to an overlay should not include a requirement to give notice to third parties where the parent provision excludes third party notice and review. A provision that exceeds its lawful scope creates uncertainty for the decision-maker and stakeholders in planning processes and will result in unnecessary cost and delay.

RULE 6: The application of a provision must be clear.

A provision must:

- Clearly identify the scope of its application to an area or specified classes of use or development.
- Define its application by reference to land use or development terms defined in the Act or the VPP.
- Where a provision is applied to an area, clearly define the area.

Planning schemes contain a range of provisions that apply to a broad range of activities and land. In most cases, only a few provisions will be relevant to a given piece of land or a class of land use or development. It is important that provisions allow users to quickly identify the obligations and requirements that affect them, without having to interrogate many provisions that are not relevant to their proposal.

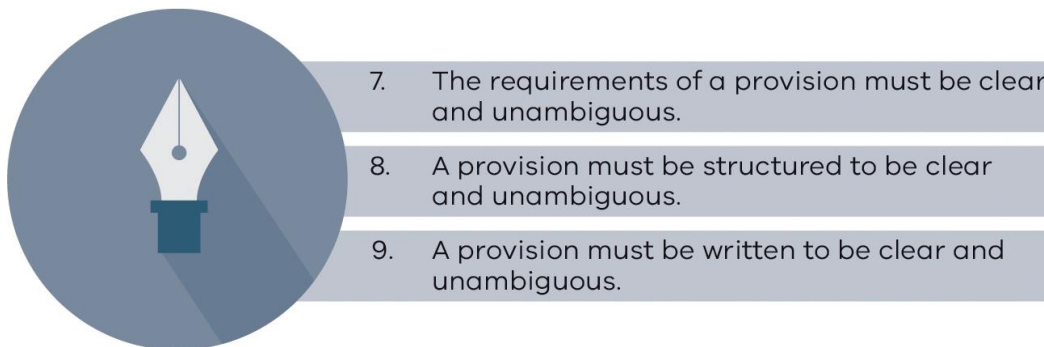
A provision should therefore clearly identify the scope of its application to an area or activity.

Where a provision applies to a particular class of use or development, care should be taken to ensure its application is expressed using land use or development terms that are defined or have a clear meaning.

Where a provision is applied to an area that has not already been mapped in the planning scheme (such as by an overlay) a map should be used to define the area. A written description of the area should not be used.

4.4 Drafting rules

A provision must be clear, unambiguous and effective in achieving the intended outcome.



RULE 7: The requirements of a provision must be clear and unambiguous.

A provision must:

- Not set or define the scope of a requirement by reference to terms that are undefined or that are capable of more than one meaning.
- When relying on a list of conditions to trigger or exempt a requirement in a control, clearly identify the intended meaning of each condition.
- Not make a permit requirement contingent on the opinion or satisfaction of a decision-maker or other body (including the responsible authority).
- Avoid expressions where a requirement is contingent upon the existence of a set of facts or circumstances that are not objective or readily ascertainable (such as by requiring expert opinion or an external document).

The planning scheme specifies when a permit or other approval needs to be obtained before an activity on land can commence. Failing to understand and comply with these obligations can have serious consequences for a landowner or proponent. It is important that a provision clearly and objectively sets out the scope of its application so that a user is in no doubt about the extent of their obligation to obtain a permit or to meet a requirement.

Planning schemes also include requirements that impose limitations on how land may be used or developed and on how a discretion may be exercised. Applying these requirements to a particular piece of land can impose a significant burden on an owner or land user. Where the scope of a requirement is unclear, unnecessary disputes can result, causing delay and cost to all system users.

Similarly, the ability of a provision to set procedural requirements (such as referral) relies on identifying the subject classes of application in clear and unambiguous terms.

Procedural requirements ensure that important issues are considered by decision-makers and can affect the rights of third parties. There can be serious consequences for the validity of decisions and permits if procedural requirements are not complied with.

RULE 8: A provision must be structured to be clear and unambiguous.

A provision must:

- Set requirements in a logical and consistent manner.
- Be self-contained when setting requirements and not rely upon documents, standards or conditions that are not contained in the planning scheme.

The clarity of a provision is affected by how it is organised. In particular, by the way information and requirements are structured, such as through the use of headings, tables and the sequencing of lists.

The usability of provisions is enhanced if provisions are presented in a clear and consistent manner across all planning schemes.

The form and content of provisions are largely determined by the *Ministerial Direction – The Form and Content of Planning Schemes*. The detailed requirements and templates in this direction seek to achieve a number of the VPP principles, with an overarching objective of strengthening the clarity of planning schemes.

Where there is discretion to determine structure and presentation, provisions should be logically organised so that a user can easily understand the requirements that affect their land.

RULE 9: A provision must be written to be clear and unambiguous.

A provision must:

- Be written in language that is clear and unambiguous.
- Be written so that there is no inconsistency between provisions or the scope or effect of a requirement.
- Be expressed in language that gives effect to its purpose.
- Use terms and language that are consistent with the Act, the VPP and the relevant parent provision.
- Clearly specify the operation of items in a list (See Chapter 6.1.5 – writing a list):
 - In policy – list items are cumulative unless otherwise specified.
 - In a control – identify if list items are alternative or cumulative in their effect or application.
- Be drafted in accordance with the plain English drafting advice at Chapter 6.1.
- Avoid using terms that need definition in a local provision for their operation to be clear.
- Not modify the meaning of a term that is defined in the Act or the VPP.
- Include maps and diagrams that are consistent with the advice at Chapter 6.2.

For a planning scheme provision to be legally effective it must be sufficiently clear in its meaning and intended effect. Use plain English and clear sentence structure when drafting provisions to achieve clarity and avoid ambiguity.

5 Choosing and applying provisions

5.1 Applying a zone

5.2 Applying an overlay

5.3 Using VicSmart

5.4 Managing referral and notice requirements

5.5 Creating a schedule to a general or administrative provision

5.6 Considering a site specific provision

5.7 Considering mandatory provisions

5.1 Applying a zone

The zone is the primary tool for guiding the use and development of land. All land (except Commonwealth land) must be included in a zone. The application of a zone to land needs to carefully consider the outcomes sought for the land expressed in the MPS and local planning policies.

Before deciding which zone should be applied to land, consider:

- the land, including any particular physical characteristics, previous uses and the use and development of adjoining land, its ownership and management and the requirements of any other legislation that may apply to the land
- the intended planning outcomes for the land set out in the MPS and the PPF, as a consequence of a previous or current land use, or a particular physical characteristic of the land
- the purposes and provisions of the zone and the extent of local variation available in a schedule to the zone.

5.1.1 Public land

The *Ministerial Direction - The Form and Content of Planning Schemes* specifies that a planning scheme may only include land in a public land zone if the land is Crown land or is owned, vested in or controlled by a Minister, government department, public authority or a municipal council.

Public land zones are not intended to identify the legal status of the land or indicate the existing land use. They are intended to set out appropriate statutory requirements that apply to the use and development of the land in addition to the relevant land management legislation.

Land should not be automatically included in a public land zone just because it is public land. There will be situations where a public land zone is not the most appropriate zone, such as a road or remnant parcel of public land in a rural area. In such cases the use of other zones and overlays can appropriately recognise the purpose for which the land is reserved.

A public land zone can be applied to public land where the surrounding zoning is inappropriate or where there is a special reason to separately identify the public land for

planning purposes. This will commonly be where land management arrangements apply under legislation other than the Act.

A useful test in considering if a public land zone is appropriate is to determine if a public land manager or transport manager needs some level of flexibility, protection or exemption that is different from the surrounding zone provisions because of the special nature of the public land or asset and its control (in a land use or management sense) under another Act. For this reason, public land zones should be applied in consultation with the relevant public land manager or transport manager.

A public land manager or transport manager should be able to use and develop public land for any purpose under the relevant land management or transport legislation without the need for a permit. This is achieved by allowing many uses to be categorised under Section 1 within a public land zone, subject to the use being conducted *by or on behalf of* the public land manager, transport manager or a specified public authority. These words should not be interpreted to allow a public land manager or transport manager to have a blanket exemption within the zone to the extent that it could consent to any use or development by another party and have that use or development also automatically exempt from planning control.

The words *by or on behalf of* should be interpreted with regard to the particular statutory charter of the public land manager under its governing legislation and indicate that the use or development must be undertaken by the public land manager or transport manager itself or by some other person or entity having a direct representative interest or relationship with the public land manager.

Land that is not public land must not be included in a public land zone. Many public authorities established under Victorian legislation are government business enterprises that are commercial in nature. Where the public land use is essentially of a commercial or business nature (such as an office or the provision of services) or comprises a community facility, the surrounding zoning will usually be appropriate.

For example:

- Although the public land zone makes provision for its potential application to public land used for the purpose of 'education', most schools can be included in the surrounding zone, particularly residential zones.
- Many work depots or offices for government or local government bodies can be included in a commercial or industrial zone.
- To preserve competitive neutrality, similar private and public land use should be treated in the same manner for zoning purposes where possible.

5.1.2 Special purpose zones

Where the strategic intent of a site is unknown or the application of a combination of zones, overlays and local policies is not able to achieve the desired planning outcomes, a special purpose zone may be used. These zones include the Special Use Zone, the Comprehensive Development Zone, the Urban Growth Zone, the Activity Centre Zone and the Precinct Zone.

Maintaining consistency of planning controls across Victoria is a VPP principle. Using a special purpose zone is therefore discouraged unless there is clearly no suitable alternative.

See *PPN 03 - Applying the Special Use Zone* for more information on the Special Use Zone.

See Chapter 5.6 for information about dealing with site specific matters.

5.1.3 Utility service providers

Land that is owned by or vested in a utility service provider is usually not public land and should not be included in a public land zone. A utility service provider is defined in the planning scheme.

The public land zones are not intended to provide for privatised or semi-privatised bodies that carry out a function of a broadly public nature. Examples include telecommunications carriers such as Telstra and electricity distribution companies. The land used by such bodies should not be included in a public land zone.

5.1.4 Commonwealth land

Victoria's planning schemes do not apply to Commonwealth land where the land is owned by the Commonwealth or the use is carried on by a Commonwealth government agency *within the shield of the Crown*. This immunity applies to Commonwealth government departments, defence facilities and several public authorities established under Commonwealth legislation, but does not apply to government business enterprises such as Telstra.

Commonwealth land is not included in any zone or overlay in a planning scheme. It is recognised by the designation "CA" on the planning scheme map.

5.1.5 Flood protection

The planning authority can choose from a range of tools to identify flood affected land in the planning scheme. There are four types of flood provisions available; the Urban Floodway Zone, the Floodway Overlay, the Land Subject to Inundation Overlay and the Special Building Overlay. These reflect the type of flooding and the potential level of risk to life and property. The level of planning control in each provision reflects the potential flood risk.

The Urban Floodway Zone is a restrictive zone that prohibits most uses and development. It is designed to be applied to urban environments where there is a high potential flood risk and only low intensity uses and development (such as recreation) are suitable.

See Chapter 5.2.4 for information on overlays for flood protection.

See *PPN 12 - Applying the Flood Provisions in Planning Schemes* for more information.

5.1.6 Rural land

The Farming Zone, Rural Activity Zone, Green Wedge Zone and Green Wedge A Zone should be used where the planning outcomes sought for the land are primarily farming activities.

The Rural Conservation Zone and Rural Living Zone should be used where farming is subordinate to other land uses or the environmental values of the land.

In determining the most appropriate zone to apply to rural land, the planning authority must consider the degree to which it is acceptable for the land to be used for non-farming activities.

See *PPN 42 - Applying the Rural Zones* for more information.

5.1.7 Transport Zone

The Transport Zone identifies land for Victoria's transport system. State-managed transport infrastructure is designated Transport Zone 1. A road declared under the *Road Management Act 2004* is designated Transport Zone 2 and significant municipal roads are designated Transport Zone 3. Other transport infrastructure is designated Transport Zone 4. Examples are set out in Table 2 below.

Table 2: Transport Zone designations

Zone	Purpose of Transport Use	Example
TRZ1	State transport infrastructure	railways, railway stations, intermodal freight terminals
TRZ2	Principal Road Network	declared arterial roads and freeways
TRZ3	Significant municipal road	higher order local roads
TRZ4	Other transport uses	municipal aerodromes

5.1.8 Summary of zones

The following is a short summary of each of the zones.

RESIDENTIAL ZONES

Planning Practice Note 91 – Using the Residential Zones explains the purposes and features of each of the residential zones and how to apply them and their schedules.

Low Density Residential Zone (clause 32.03 and schedule)

This zone is applied to areas on the fringe of urban settlements and townships with reticulated sewerage (0.2 ha minimum) or without reticulated sewerage (0.4 ha minimum) to ensure lots remain large enough to treat and retain all wastewater but are small enough to be maintained without the need for agricultural techniques or equipment.

Mixed Use Zone (clause 32.04 and schedule)

This zone is applied to areas suitable for a mixed-use function, including a range of residential, commercial, industrial and other uses. It is suitable for areas identified for residential development at increased densities including urban renewal and strategic

redevelopment sites. A schedule to the zone may specify a maximum building height and local requirements for specified clause 54 and clause 55 standards.

Township Zone (clause 32.05 and schedule)

This zone is applied to small towns with no specific structure of residential, commercial and industrial land uses. A schedule to the zone can be used to change the permit requirement for a dwelling, based on lot size. The schedule can also specify a maximum building height for a dwelling or residential building and local requirements for specified clause 54 and clause 55 standards.

Residential Growth Zone (clause 32.07 and schedule)

This zone is applied to areas suitable for housing diversity and housing at increased densities in locations offering good access to services, jobs and public transport, and to provide a transition between areas of more intensive use and development such as activity centres, and other residential areas.

A discretionary maximum building height of 13.5 metres applies to a dwelling or residential building. A schedule to the zone can be used to specify a mandatory maximum building height and local requirements for specified clause 54 and clause 55 standards.

General Residential Zone (clause 32.08 and schedule)

This zone is applied to areas where housing development of three storeys exists or is planned for in locations offering good access to services and transport.

A mandatory maximum building height of 11 metres and three storeys applies to a dwelling or residential building. A schedule to the zone can be used to:

- change the permit requirement for a dwelling (based on lot size)
- specify a higher mandatory maximum building height
- set local requirements for specified clause 54 and clause 55 standards.

Neighbourhood Residential Zone (clause 32.09 and schedule)

This zone is applied to areas where there is no anticipated change to the predominantly single and double storey character, and also to areas that have been identified as having specific neighbourhood, heritage, environmental or landscape character values that distinguish the land from other parts of the municipality or surrounding area.

A mandatory maximum building height of 9 metres and two storeys applies to a dwelling or residential building. A schedule to the zone can be used to:

- change the permit requirement for a dwelling (based on lot size)
- specify a minimum lot size for subdivision
- specify a higher mandatory maximum building height
- set local requirements for specified clause 54 and clause 55 standards.

Housing Choice and Transport Zone (clause 32.10)

This zone is applied to areas surrounding the core of activity centres and other well-serviced locations with convenient access to jobs, public transport and services, where a diversity of housing at increased densities is supported.

Mandatory maximum building heights and storeys apply to a dwelling, small second dwelling or residential building based on lot size and frontage and proximity to activity centres, jobs, public transport and services.

INDUSTRIAL ZONES

Industrial 1 Zone (clause 33.01 and schedule)

This is the main zone to be applied in most industrial areas. It includes additional requirements for land in proximity to residential areas. A schedule to the zone allows the maximum floor space to be limited for office use.

Industrial 2 Zone (clause 33.02 and schedule)

This zone is for large industrial areas that have a core of more than 1500 metres from residential areas and are of state significance. Note that special requirements apply to the 'core' area of this zone (the area more than 1500 metres from a residential zone) as this area is a resource intended to be reserved for uses that require that degree of separation from residential and similar areas. Each industry in the core area will be considered on its merits depending upon its effect on neighbouring industries and communities. Generally, uses that do not depend on such a location are discouraged in this zone.

A schedule to the zone allows the maximum floor space to be limited for office use.

Industrial 3 Zone (clause 33.03 and schedule)

This zone is designed to be applied as a buffer between the Industrial 1 Zone or Industrial 2 Zone and residential areas, if necessary. It may also be applied to industrial areas where special consideration is required because of industrial traffic using residential roads, unusual noise or other emission impacts, or to avoid inter-industry conflict. A schedule to the zone allows the maximum floor space to be limited for office use.

The zone provides for some retailing, including convenience shops, small-scale supermarkets and associated shops in appropriate locations.

COMMERCIAL ZONES

Commercial 1 Zone (clause 34.01 and schedule)

This zone is applied in mixed use commercial centres for retail, office, business, residential, entertainment and community uses. It allows a wide range of commercial and accommodation activities without a permit, including a supermarket or shop.

A schedule to the zone allows a maximum leasable floor space to be specified for office or shop only in rural planning schemes (not in metropolitan Melbourne).

Commercial 2 Zone (clause 34.02 and schedule)

This zone encourages offices and associated business and commercial services together with appropriate industry and retailing. A small-scale supermarket (up to 1800 square metres) is allowed without a permit on land located within the City of Greater Geelong or within an urban growth boundary in metropolitan Melbourne. Any supermarket in a rural area requires a permit to ensure the protection of established centres in regional towns. A supermarket and any associated shops must adjoin or have access to a main road.

Commercial 3 Zone (clause 34.03 and schedule)

This zone is a mixed-use employment zone which is intended to facilitate the establishment and growth of creative industries, small manufacturers and start-up businesses. The zone provides for a wide range of employment uses without a permit, including Arts and craft centre, Education centre, Home based business, Industry (with some exceptions), Manufacturing sales, Market, Office, and Research centre.

A schedule to the zone may provide for an alternate maximum allowable percentage of the combined gross floor area of all buildings on a lot for a Dwelling and Residential building.

RURAL ZONES

Planning Practice Note 42 – Applying the Rural Zones explains the purposes and features of the rural zones and how to apply them and their schedules.

Rural Living Zone (clause 35.03 and schedule)

This zone provides for predominantly residential use in a rural environment provided appropriate land management is exercised. This zone should only be used where this type of use exists, or where such a use can be strategically justified. The zone also allows agricultural activities, provided that the amenity of residential living is protected. A schedule to the zone allows the lot size and a number of other matters to be specified.

Green Wedge Zone (clause 35.04 and schedule)

The purpose of this zone is to recognise and protect non-urban land outside the Urban Growth Boundary in the Melbourne metropolitan area for its agricultural, environmental, historic, landscape or recreational values, or mineral and stone resources. The zone provides a minimum lot size of 40 hectares unless an alternative is specified in a schedule to the zone. The creation of smaller lots is allowed under particular circumstances.

Green Wedge A Zone (clause 35.05 and schedule)

This zone provides opportunity for most agricultural uses and limits non-rural uses to those that support agriculture or tourism provided that the amenity of residential living is protected. It seeks to protect and enhance the biodiversity, natural resources, scenic landscapes and heritage values and to promote sustainable land management. It also provides opportunity for limited residential development subject to a permit. The zone provides a minimum lot size of 8 hectares unless an alternative is specified in a schedule to the zone. The creation of smaller lots is allowed under particular circumstances.

Rural Conservation Zone (clause 35.06 and schedule)

This zone is designed to protect and enhance the natural environment for its historic, archaeological, scientific, landscape, faunal habitat and cultural values. Agriculture is allowed, provided it is consistent with the environmental and landscapes values of the area. This zone could also be applied to rural areas degraded by environmental factors such as salinity or erosion. A schedule requires specific conservation values to be stipulated. The zone provides a minimum lot size of 40 hectares unless an alternative is specified in a schedule to the zone. The creation of smaller lots is allowed under particular circumstances.

Farming Zone (clause 35.07 and schedule)

This zone encourages the retention of productive agricultural land and encourages the retention of employment and population to support rural communities. The zone provides a minimum lot size of 40 hectares unless an alternative is specified in a schedule to the zone. The creation of smaller lots is allowed under particular circumstances.

Rural Activity Zone (clause 35.08 and schedule)

This zone is designed to be applied to areas where agricultural activities and other land uses can co-exist. A wider range of tourism, commercial and retail uses may be considered in the zone. Agriculture has primacy, but other uses may be established if they are compatible with the agricultural, environmental and landscape qualities of the area. A minimum lot size must be specified in a schedule to the zone. The creation of smaller lots is allowed under particular circumstances.

PUBLIC LAND ZONES

Public Use Zone (clause 36.01 and schedule)

This zone recognises the use of land for a public purpose and prescribes a number of categories of public use which can be shown on the planning scheme map. This is the main zone for public land used for utility or community service provision. A schedule allows specified uses or managers of public land to be exempted from specified requirements. Alternative sign categories may be specified if required.

Public Park and Recreation Zone (clause 36.02 and schedule)

This is the main zone for public open space and public recreation areas. A schedule allows specified uses or managers of public land to be exempted from specified requirements. It also allows an exemption for buildings and works specified in an incorporated plan. Alternative sign categories may be specified if required.

Public Conservation and Resource Zone (clause 36.03 and schedule)

This zone provides for places where the primary intention is to conserve and protect the natural environment or resources. It also allows associated educational activities and resource-based uses. A schedule allows specified uses or managers of public land to be exempted from specified requirements. It also allows an exemption for buildings and works specified in an incorporated plan. Alternative sign categories may be specified if required.

Transport Zone (clause 36.04)

This zone identifies land in the transport system. State-managed transport infrastructure is designated Transport Zone 1. A road declared under the Road Management Act 2004 is designated Transport Zone 2 and significant municipal roads are designated Transport Zone 3. Other transport infrastructure is designated Transport Zone 4.

SPECIAL PURPOSE ZONES

Special Use Zone (clause 37.01 and schedule)

This zone provides for the use of land for specific purposes. The purposes and the land use requirements are specified in a schedule to the zone. This allows detailed land use requirements to be prescribed for a particular site. Development conditions (where they are necessary) are still set out in a permit rather than the planning scheme. Exemptions from notification and review can be provided in the zone if desired. *The Ministerial Direction – The Form and Content of Planning Schemes* includes some specific requirements for this zone. *Planning Practice Note 3 – Applying the Special Use Zone* explains the operation of this zone in more detail.

Comprehensive Development Zone (clause 37.02 and schedule)

This zone is similar to the Special Use Zone but is designed to allow more complex developments in accordance with a comprehensive development plan incorporated in the planning scheme. Generally, only large or complex developments would warrant the use of this zone.

Urban Floodway Zone (clause 37.03 and schedule)

This zone is applied to urban land where the primary function of the land is to carry or store floodwater. It applies to high hazard areas with high flow velocities, where impediment of floodwater can cause significant changes in flood flows and adversely affect flooding in other areas. Where land is subject only to inundation and low velocities, the Land Subject to Inundation Overlay can be used. The views and flooding information of the relevant floodplain management authority must be considered when applying this zone.

Capital City Zone (clause 37.04 and schedule)

This zone provides for the use and development of land in Melbourne's central city area, recognising its role as the capital of Victoria and as an area of national and international importance. It operates in a similar manner to the Special Use Zone. Detailed requirements are prescribed for a particular site or area through the schedule to the zone. The zone does not specify a sign category but requires a permit for all signs unless a schedule specifies otherwise. Exemptions from notice and review can be given if desired.

Docklands Zone (clause 37.05 and schedule)

This zone provides for the use and development of land in Melbourne's Docklands area, in a manner consistent with the development strategy adopted by the Docklands Authority. It operates in a similar manner to the Special Use Zone. Detailed requirements are prescribed for a particular site or area in the schedule to the zone. The schedule specifies car parking requirements. Exemptions from notice and review can be specified if desired.

Priority Development Zone (clause 37.06 and schedule)

This is a specialised zone designed to implement approved strategies and developments of state or regional significance at specific locations. The zone facilitates the approval and management of complex projects where agreement on the desired form of development has been reached between the responsible authority and the developer. The detailed provisions of the zone are linked to agreed development plans. The zone exempts development that conforms with an agreed incorporated plan from third-party reviews unless a right to review is specifically included in the schedule.

Urban Growth Zone (clause 37.07 and schedule)

This zone sets out the requirements for the development of new residential and employment precincts on previously undeveloped land. It requires the establishment of a precinct structure plan before a growth area can be developed and subdivided. The zone includes provisions to ensure that any new use and development does not prejudice the future urban use and development of the land where a precinct structure plan is yet to be applied.

Where a precinct structure plan is in place, the zone provides for specific zone provisions to be applied by way of a schedule.

See the Green Wedge Planning Provisions webpage at planning.vic.gov.au for advice about the operation of the zone and the role and function of precinct structure plans.

Activity Centre Zone (clause 37.08 and schedule)

The Activity Centre Zone is the preferred tool to guide and facilitate the use and development of land in activity centres. The zone encourages a mix of uses and intensive development including higher density housing. The zone allows for a schedule to specify or vary the land use provisions together with other provisions in the zone. See *Planning Practice Note 56 – Activity Centre Zone* for detailed guidance on the zone.

Port Zone (clause 37.09 and schedule)

This zone seeks to ensure that land use and development recognises the significant transport, logistics and prime maritime gateway roles of Victoria's commercial trading ports. It supports shipping, road and railway access to those ports and uses that derive direct benefit from co-locating with them. While it provides for the ongoing use and development of Victoria's commercial trading ports, the zone also seeks to protect uses in adjacent residential zones, the Capital City Zone or the Docklands Zone and any land used for or proposed to be acquired for a hospital or an education centre. An application is exempt from the notice and review provisions of the PE Act except within 30 metres of such land.

Precinct Zone (clause 37.10 and schedule)

The Precinct Zone is the preferred tool to guide and facilitate the use and development of land in priority precincts that have been identified for substantial change. It is a fit-for-purpose tool that provides a consistent framework for the implementation of strategic work (such as structure plans) in priority precincts. The zone allows for a schedule to define the role of the precinct, include master plan requirements and a public benefit uplift framework,

and specify use and development requirements. An application is exempt from notice and review provisions of the PE Act unless a schedule to the zone specifies otherwise.

5.2 Applying an overlay

An overlay can be used to complement the zoning of land in managing development. Certain overlays also control the use of land in special circumstances. Applying an overlay to land requires careful consideration of the development outcomes sought for the land. These outcomes should be determined by the policies of the MPS and the PPF and any particular characteristic of the land.

In determining whether to apply an overlay, consider:

- the land, including, natural features, previous uses, future uses, adjoining uses, ownership, management and the requirements of any other legislation that may apply to the land
- the intended development outcomes set out in the MPS and the PPF, as a consequence of a previous or current land use, or a particular physical characteristic of the land
- the purposes and provisions of the overlay and the extent of local variation available in any schedule to the overlay.

5.2.1 Overlays on public land

The decision about whether to apply an overlay to public land will depend on the nature of the overlay and the land management legislation of the public land manager or transport manager. For example, a Vegetation Protection Overlay over a state forest duplicates the function of the public land manager. However, a Vegetation Protection Overlay may sometimes be appropriate over significant vegetation on road or railway land (where the core function is not the management of the vegetation).

Like the application of any overlay, there must be specific justification for the additional requirement. Appropriate provision should be made for the routine operations of the public use, such as exemption for regular maintenance.

5.2.2 Heritage

A heritage place should be included in the schedule to the Heritage Overlay. A heritage place may include a single object or an area and includes a place:

- listed on the Australian Heritage Council's (now closed) *Register of the National Estate*
- referred by the Heritage Council for consideration for an amendment to the planning scheme
- identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.

Places listed on the former *Register of the National Estate* or on the *National Trust Heritage Register* of the National Trust of Australia (Victoria) do not have statutory protection unless they are protected in the planning scheme.

The heritage process leading to the identification of a place must clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place must therefore include a statement of significance that

clearly establishes the importance of the place and addresses the heritage criteria. See Chapter 6.5.8 for information on statements of significance in the Heritage Overlay. This statement must be included as an incorporated document in the planning scheme.

5.2.3 Vegetation protection

Overlays are the principal tools in the VPP to protect vegetation in urban environments.

The native vegetation provisions of clause 52.17 may assist in protecting remnant native vegetation; however, this provision is primarily designed to prevent broad-scale clearing of native vegetation, so will have limited applicability in urban areas with lot sizes under 0.4 hectares.

The VPP includes four overlays that can be used to protect and manage vegetation in urban areas: the Vegetation Protection Overlay, the Environmental Significance Overlay, the Significant Landscape Overlay and the Heritage Overlay. Each overlay includes a schedule that is used to specify how the overlay applies to land within a particular municipality.

Choosing the correct overlay is important and the principles used should be applied consistently through the planning scheme. The following matters should be considered when choosing an overlay to protect vegetation:

- What is to be protected (an individual tree or group of trees, an area of habitat)?
- Why is it being protected (heritage, scientific, cultural, landscape or habitat value)?
- How should it be protected (protection of the root zone, requirements about buildings and works, subdivision)?
- What other requirements apply to the land and are there any gaps (zone provisions, other overlays, native vegetation provisions)?

The overlay selected should accurately reflect the identified objectives so that there is transparency in the application of planning policy and requirements. This may involve weighing up various reasons for protecting the vegetation. For example, the principal reason for a tree's significance may be its cultural value rather than its habitat value.

If a tree is of Aboriginal significance or contributes to the setting of an historic building, the Heritage Overlay may be more appropriate than the Vegetation Protection Overlay.

The overlay should also include appropriate requirements to achieve the planning objective. In urban situations, buildings and works can have a significant impact on vegetation, including intruding on the root zone. In these cases, an overlay that provides requirements for buildings and works may be chosen. If the root zone is to be protected, the schedule may only require a permit for buildings and works within a certain distance from the vegetation.

The Design and Development Overlay is not a tool to protect vegetation. The schedule to this overlay may, however, contain specific landscaping requirements to ensure that a new development is respectful of the landscape character of the neighbourhood.

See *PPN 7 - Vegetation Protection in Urban Areas* for more information.

5.2.4 Flood protection

There are four flood provisions available; the Urban Floodway Zone, the Floodway Overlay, the Land Subject to Inundation Overlay and the Special Building Overlay. These four provisions are designed to respond to differences in the type of flooding and the potential level of risk to life and property.

The flood provisions do not address the cause of flooding, but the way future land use and development will impact on the flooding problem or be impacted themselves by flooding. The cause needs to be dealt with by separate means. This may include other actions by council and the floodplain management authority, such as flood mitigation measures, that may be linked to a council plan or a floodplain management strategy.

5.2.5 Potentially contaminated land

In accordance with *Ministerial Direction No. 1 - Potentially Contaminated Land*, where a planning authority determines that the requirements of a preliminary risk screen assessment (PRSA) statement or environmental audit statement are difficult or inappropriate it may defer these requirements, provided the requirements are included in the amendment through the application of an Environmental Audit Overlay or other appropriate measure.

The Environmental Audit Overlay (EAO) is intended to ensure the requirement for a PRSA or an environmental audit under Direction No. 1 is met before the commencement of a sensitive use or any buildings and works associated with that use. This ensures the requirement will be met in the future, but does not prevent the assessment and approval of a planning scheme amendment.

By applying the overlay, the planning authority has made an assessment that the land is potentially contaminated land and is unlikely to be suitable for a sensitive use without more detailed assessment, remediation works or management. The steps set out in *PPN30 - Potentially Contaminated Land* should be used to make this assessment.

Applying the overlay also means that the planning authority has decided the requirements of Direction No. 1 may be deferred. The EAO is a statutory mechanism to provide for that deferment. The EAO is not simply a means of identifying land that is or might be contaminated and should not be used for that purpose. Previous zoning is not a sufficient reason in itself to apply the EAO.

Planning authorities should be careful in applying the EAO. The majority of buildings and works associated with a sensitive use may trigger the need to undertake an environmental audit. These costly requirements are passed on to individual land owners long after the application of the overlay.

Where sensitive uses already exist on a site the planning authority, before applying an EAO, should determine if the site is potentially contaminated (through site history records). If there is no evidence of potentially contaminated land it may not be appropriate to apply the EAO to these sites.

5.2.6 Buffers

The Buffer Area Overlay (BAO) can be used to prevent future encroachment and intensification of incompatible use and development within the buffer areas of industry, warehouse, infrastructure or other uses with potential off-site impacts. Criteria must be met and information about off-site impacts must be provided to apply the BAO. Further guidance about applying the BAO is available in *PPN 92 - Managing Buffers for Land Use Compatibility*.

5.2.7 Open drinking water catchments

A reliable supply of drinking water that meets appropriate water quality standards is essential to community health and wellbeing. It is important to protect water supply catchments that provide water resources for drinking water and domestic purposes. Use and development of land can affect water quality in waterways from nutrient, chemical and waste contamination, as well as sediment run-off.

The guideline for *Planning Permit Applications in Special Water Supply Catchment Areas* (Department of Energy, Environment and Climate Action, February 2024) contains advice on the density of dwellings and other activities requiring onsite wastewater disposal in special water supply catchment areas.

A council in a municipal district with on-site wastewater management systems is required to develop an on-site wastewater management plan (OWMP) that can be used as strategic basis for relaxing dwelling density.

Various planning tools are available to a planning authority seeking to manage use and development in an open drinking water catchment, including policy and controls. For example, the Environmental Significance Overlay has been applied in some planning schemes to tailor environmental objectives, permit requirements, referrals and decision guidelines in open drinking water catchment areas.

See *Planning Practice Note 55 - Planning in Open Drinking Water Catchments* for further information about planning in an open drinking water catchment.

5.2.8 Summary of overlays

The following is a short summary of each of the overlays in the VPP.

ENVIRONMENT AND LANDSCAPE OVERLAYS

Environmental Significance Overlay (clause 42.01 and schedule)

This overlay seeks to address areas where the development of land may be affected by environmental constraints such as effects from noise or industrial buffer areas, as well as issues related to the natural environment. The schedule to the zone must clearly set out the environmental significance of the area and the resultant objective of the overlay.

Vegetation Protection Overlay (clause 42.02 and schedule)

This overlay focuses on the protection of significant vegetation, including native and introduced vegetation. It can be applied to individual trees, stands of trees or areas of significant vegetation. The significance of identifying the vegetation must be stated, together with the

intended outcomes of the imposed requirements. *Planning Practice Note 7 – Vegetation Protection in Urban Areas* explains the function of this overlay and other relevant vegetation provisions in more detail.

Significant Landscape Overlay (clause 42.03 and schedule)

The function of this overlay is to identify, conserve and enhance the character of significant landscapes. The schedule to the zone must explain the significance of the landscape, together with the intended outcomes of imposed requirements. *Planning Practice Note 7 – Vegetation Protection in Urban Areas* explains the function of this overlay and other relevant landscape provisions in more detail.

HERITAGE AND BUILT FORM OVERLAYS

Heritage Overlay (clause 43.01 and schedule)

Any heritage place with a recognised citation should be included in the schedule to this overlay. In addition, any heritage place identified in local heritage studies can also be included.

A heritage place can have a wide definition and may include a single object or an area.

There needs to be a rigorous heritage assessment process leading to the identification of the place. The documentation for each place must include a statement of significance that establishes the importance of the place. The statement of significance must form part of an incorporated document and be specified in the schedule to the Heritage Overlay.

For guidance on applying heritage provisions see *Planning Practice Note 1 – Applying the Heritage Overlay* and *The Victorian Heritage Register Criteria and Threshold Guidelines* (Heritage Council of Victoria, updated December 2022).

Design and Development Overlay (clause 43.02 and schedule)

This overlay is principally intended to implement requirements based on a demonstrated need to control built form and the built environment. The intended built form outcome, and the way in which the imposed requirements will bring this about, must be clearly stated. Where possible, performance-based requirements should be used rather than prescriptive requirements.

Incorporated Plan Overlay (clause 43.03 and schedule)

This overlay is used to:

- prescribe a plan for an area to coordinate proposed use or development before a permit can be granted under the zone
- exempt from notice and review any permit applications that conform with the plan.

A plan established by the Incorporated Plan Overlay is incorporated in the planning scheme. It can only be introduced or changed by a planning scheme amendment and will normally be publicly exhibited as part of that process, making it appropriate to use when a plan is likely to affect third-party interests.

Planning Practice Note 23 – Applying the Incorporated Plan and Development Plan Overlay provides advice on the operation of this overlay.

Development Plan Overlay (clause 43.04 and schedule)

This overlay is used where the form of development is appropriately controlled by a plan that satisfies the responsible authority as there is no public approval process for the plan.

A planning scheme amendment is not required to amend a plan established by a Development Plan Overlay.

For more information on the operation of this overlay see *Planning Practice Note 23 – Applying the Incorporated Plan and Development Plan Overlay*.

Neighbourhood Character Overlay (clause 43.05 and schedule)

This overlay identifies areas of existing or preferred neighbourhood character. It requires a planning permit for buildings and works and the demolition or removal of a building or tree if specified in a schedule to the overlay. A schedule to the overlay can be used to modify certain standards of clause 54 or clause 55 of the planning scheme.

Built Form Overlay (clause 43.06 and schedule)

This overlay is used to set out specific design and built form requirements, such as building heights, street wall heights and setbacks, to facilitate higher density development in activity centres and other well-serviced locations. The overlay includes baseline outcomes and standards that are then customised to each location. The overlay enables 'deemed to comply' standards to be specified in a schedule as well as master plan requirements and a public benefit uplift framework.

LAND MANAGEMENT OVERLAYS

Erosion Management Overlay (clause 44.01 and schedule)

This overlay identifies land subject to significant erosion. There should be appropriate technical justification to support the application of this overlay.

Salinity Management Overlay (clause 44.02 and schedule)

This overlay identifies land subject to significant salinity. It requires a planning permit for buildings and works, subdivision and the removal of vegetation in areas affected by salinity. All applications are referred to the relevant state environment department. There should be appropriate technical justification to support the application of this overlay.

Floodway Overlay (clause 44.03 and schedule)

This overlay is applied to urban and rural land that is subject to mainstream flooding where the focus of control is on development, rather than land use. These areas convey active flood flows or store floodwater in a similar way to the Urban Floodway Zone but with a lesser flood risk. The identification of these areas should be established in consultation with the relevant floodplain management authority. *Planning Practice Note 12 – Applying the Flood Provisions in Planning Schemes* explains the function of this overlay and other relevant flood provisions in more detail.

Land Subject to Inundation Overlay (clause 44.04 and schedule)

This overlay applies to either rural or urban land in riverine areas that are subject to inundation but are not part of the primary floodway. The overlay is also applied to areas subject to coastal flooding, including areas where the flood risk will increase as a result of climate change. The identification of these areas should be established in consultation with the relevant floodplain management authority. *Planning Practice Note 12 – Applying the Flood Provisions in Planning Schemes* explains this overlay and other relevant flood provisions in more detail.

Special Building Overlay (clause 44.05 and schedule)

This overlay applies to urban land that is subject to overland flow resulting from stormwater flooding where the capacity of the drainage system is exceeded during heavy rainfall. This

land is not part of a primary floodway from a river or stream. *Planning Practice Note 12 – Applying the Flood Provisions in Planning Schemes* explains the operation of this overlay and other relevant flood provisions in more detail.

Bushfire Management Overlay (clause 44.06 and schedule)

This overlay is applied to areas identified as having high bushfire hazard. Together with the planning requirements for bushfire protection in clause 53.02, this overlay controls development in order to mitigate risk to life, property and community infrastructure. *Planning Practice Note 64 – Local Planning for Bushfire Protection* explains the use of this overlay in more detail.

State Resource Overlay (clause 44.07 and schedule)

This overlay is applied to protect areas of mineral, stone and other resources, identified as being of state significance, from development that would prejudice the current or future productive use of the resource.

Buffer Area Overlay (clause 44.08 and schedule)

This overlay identifies buffer areas where there is potential for off-site impacts on human health or safety; or significant off-site amenity impacts from industry, warehouse, infrastructure or other uses. The overlay seeks to ensure use and development in buffer areas is compatible with potential off-site impacts.

OTHER OVERLAYS

Public Acquisition Overlay (clause 45.01 and schedule)

This overlay identifies land that is proposed to be acquired for a public purpose. It has the effect of reserving the land under the *Land Acquisition and Compensation Act 1986*. The authority acquiring the land and the purpose of the acquisition must be set out in the schedule. Once land is acquired by a public authority, it should be rezoned to an appropriate zone.

Airport Environs Overlay (clause 45.02 and schedules)

This overlay is applied to land that is subject to high and moderate levels of aircraft noise and sets out requirements to respond to those noise conditions. The *Australian Noise Exposure Forecast* (ANEF) defines areas of high aircraft noise levels. Where ANEF contours do not exist, Australian Standard AS2021: 2015, *Acoustics – Aircraft Noise Intrusion – Building Siting and Construction*, gives guidance for determining an appropriate boundary.

Schedule 1 identifies uses that are prohibited, uses for which a permit is required and associated application referral requirements. It is based on the 25 ANEF contour.

Schedule 2 identifies noise-sensitive uses that require a permit and associated application referral requirements. It is based on the 20 ANEF contour.

Environmental Audit Overlay (clause 45.03)

This overlay is applied to land identified, known or reasonably suspected of being contaminated for which certain obligations under the *Environment Protection Act 1970* have not been met. Refer to *Ministerial Direction No. 1 – Potentially Contaminated Land* for further direction on how the overlay is applied.

Planning Practice Note 30 – Potentially Contaminated Land provides further direction on addressing contamination and applying the Environmental Audit Overlay.

Road Closure Overlay (clause 45.04)

This overlay is used to identify a road that is closed by an amendment to a planning scheme.

Restructure Overlay (clause 45.05 and schedule)

This overlay applies a restructure plan to old and inappropriate subdivisions as a condition of development approval. The restructure plan should be an incorporated document because it controls whether or not a permit can be considered.

Development Contributions Plan Overlay (clause 45.06 and schedule)

This overlay identifies areas where a development contributions plan is in place. The schedule to the overlay summarises the development contributions required. A more detailed incorporated document and local content within the PPF will usually be associated with the overlay.

City Link Project Overlay (clause 45.07)

This overlay exempts specified use and development associated with certain projects from any requirement of the planning scheme. The overlay includes permit exemptions and requirements for certain signs.

Melbourne Airport Environs Overlay (clause 45.08 and schedules)

This overlay seeks to ensure that land use and development in the vicinity of Melbourne Airport is compatible with the operation of the airport and that exposure of new dwellings and other noise-sensitive buildings to aircraft noise is minimised through appropriate noise attenuation measures.

The overlay controls restrict development or require special consideration to be given to particular uses that may be sensitive to noise in areas that are forecast to be affected by moderate to high levels of aircraft noise.

Schedule 1 identifies areas that will be subject to high levels of aircraft noise and is based on the 25 ANEF contour.

Schedule 2 identifies areas that will be subject to moderate levels of aircraft noise and is based on the 20 ANEF contour.

Parking Overlay (clause 45.09 and schedule)

This overlay is used to manage car parking in a precinct where local parking issues have been identified and a common strategy can be adopted to respond to the issues. *Planning Practice Note 57 – The Parking Overlay* provides guidance on the preparation and application of the overlay.

Infrastructure Contributions Plan Overlay (clause 45.10 and schedule)

This overlay identifies areas where an infrastructure contributions plan is in place. The schedule to the overlay summarises the development contributions required. A more detailed incorporated document will be associated with the overlay, which applies to infrastructure contributions plans incorporated into a planning scheme before 15 May 2018.

Infrastructure Contributions Overlay (clause 45.11 and schedule)

This overlay identifies the area where an infrastructure contributions plan applies for the purpose of imposing contributions for the provision of infrastructure. The schedule to the overlay summarises the development contributions required. A more detailed incorporated document will be associated with the overlay. The Infrastructure Contributions Overlay is used to implement any new infrastructure contributions plan into a planning scheme.

Specific Controls Overlay (clause 45.12 and schedule)

This overlay is to be used to achieve a particular land use and development outcome in extraordinary circumstances that are deemed to be a major issue of policy. It is only to be applied where no other planning control or combination of controls is suitable.

The overlay may:

- allow the land to be used or developed in a manner that would otherwise be prohibited or restricted
- prohibit or restrict the use or development of the land beyond the controls that may otherwise apply
- exclude any other control in this scheme.

The schedule to the overlay includes a map reference which identifies the application of an incorporated document and the date on which the incorporated document expires.

5.3 Using VicSmart

5.3.1 How VicSmart works

VicSmart is a streamlined permit application process. VicSmart only affects the assessment procedure and has no effect on any permit requirement. Where a proposed development is assessable against only a VicSmart permit requirement, it must be assessed under the VicSmart process, which is set out at clause 71.06.

Where the VicSmart process is available for a class of application, it will be identified in a table (see example below) located directly below the permit requirement in the zone, overlay or particular provision. Local VicSmart classes are located in a table in a schedule to clause 59.15.

The VicSmart table describes the development that is a VicSmart application and identifies the provision under which the application must be assessed. For a local VicSmart application, this information is located in the schedule to clause 59.15.

Example VicSmart table

VicSmart applications	
Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.	
Class of application	Information requirements and decision guidelines
Subdivide land to realign the common boundary between 2 lots where: • The area of either lot is reduced by less than 15 percent. • The general direction of the common boundary does not change.	Clause 59.01

The information requirements and decision guidelines for all VicSmart application classes are located at clause 59.

5.3.2 Creating a local VicSmart provision

Any provision of a planning scheme can specify classes of application that can be assessed through the VicSmart process. A planning authority can include local VicSmart classes in a planning scheme in addition to the state VicSmart classes that apply to all planning schemes across Victoria.

Local VicSmart classes are set out in the schedule to clause 59.15.

A local VicSmart class can include a permit requirement that relates to a state VicSmart class. While a local VicSmart class may apply to the same permit requirement as a state VicSmart class, it cannot operate to fetter a state VicSmart class.

In deciding whether to create a local VicSmart class, consider:

- The proposed class should be capable of being received, reviewed and determined in 10 business days in almost all cases.
- The proposed class should only require a small number of discrete issues to be considered, with little to no policy balancing.
- Where an external referral authority is required to give comment under clause 66, this should be able to be obtained before lodgement without the assistance of the responsible authority.
- Where internal comment is required, it should involve no more than one or two basic matters.
- The information required for the proposed class should be simple to prepare.
- The proposed class should not involve matters that would typically require third party notice.
- That a change of use application is generally not suitable for the VicSmart process.
- Whether the proposed class would be more suitable for a permit exemption.

5.3.3 Drafting a local VicSmart table

The tables to the schedule to clause 59.15 are used to set out the provisions for any local VicSmart class.

The zone, overlay or particular provision

A VicSmart class can include a permit requirement from a single zone, overlay or particular provision, or a class of zones or overlays.

Care should be taken when selecting a class of zones or overlays, as the planning controls within the class will differ in their purposes. Not all zones or overlays will be suitable for the VicSmart process.

The class of application

The class of application must be clearly drafted so a user can easily determine if an application is subject to the VicSmart process.

The class of application should not rely on extensive conditions that need a detailed assessment of the application to decide the appropriate assessment pathway before the application is lodged. It should be possible for the responsible authority to quickly and reliably determine the appropriate assessment pathway upon receipt of the application.

The class of application must be based on an existing application type found in a zone, overlay or particular provision. For example, *“to construct a building or construct or carry out works”*.

The application type can be further refined to a particular development type. For example, *“to construct a building or construct or carry out works with an estimated cost of up to \$500,000”*.

Conditions can also be specified to narrow the class of application to only particular situations or if certain requirements are met.

Permit requirement

The permit requirement must specify the clause to which the class of application relates.

The clause the VicSmart class applies to, must be set out followed by the abbreviation of the planning control. For example: *“Clause 32.05-9 (TZ)”*.

Where a class applies to more than one provision, all provisions that apply to the class must be specified individually.

Information requirements and decision guidelines

Clause 59 includes state-standard information requirements and decision guidelines for various classes of application.

Where a local VicSmart class is created for a permit requirement that is already subject to a state VicSmart class, the planning authority may choose to use the existing information requirements and decision guidelines provision for that class at clauses 59.01 to 59.14.

Tailored local information requirements and decision guidelines can be specified in the schedule to clause 59.16.

The tables to the schedule to clause 59.16 are used to switch on any local or state VicSmart information requirements and decision guidelines by specifying the relevant clause in column 4.

5.3.4 Drafting a local VicSmart information requirement or decision guideline

Clause 71.06 specifies that a VicSmart application must be assessed only against the information requirements and decision guidelines specified for that class of VicSmart application.

Heading

The heading is a short description of the VicSmart class to which the provision applies. It will generally consist of the application type and the planning control to which the class applies. For example, *“Minor external alteration of a dwelling in a Commercial 1 Zone”*.

Information requirements

Any information requirements should be targeted to assist the decision-maker’s assessment of the application. Any information requirement must be specific to the nature of the

application and not go beyond the scope of the application. Information that does not reasonably assist a referral body in commenting on the application, or a decision-maker in deciding the application, should not be required.

The information requirements should be determined concurrently with the decision guidelines and reflect the nature and complexity of the application.

The information requirements must always include: *'A copy of title for the subject land and a copy of any registered restrictive covenant'*.

Decision guidelines

Decision guidelines, objectives or other matters in a zone, overlay, particular provision, schedule or policy relevant to the class of application must be restated or referenced in the provision if they are to be considered as part of the application.

References to other provisions should be used with restraint to ensure the scope of assessment does not go beyond that appropriate for the VicSmart process.

Decision guidelines should be neutrally expressed and require a decision-maker to consider something. They should not be framed in terms that direct the decision-maker to consider a matter in a particular way.

Decision guidelines must not include informal referral requirements. Only referral comments required under section 55 of the Act may be included as a decision guideline.

References to local policies and unincorporated studies, statements of significance or strategies should generally be avoided as they may unintentionally broaden the scope of matters for consideration.

5.4 Managing referral and notice requirements

The Act provides that a planning scheme can require that persons or bodies be given copies or notice of an application:

- Section 55 requires that a responsible authority give a copy of an application to every person or body that the planning scheme specifies as a referral authority for that kind of application.
- Section 52(1)(c) requires the responsible authority to give notice of an application to any person specified in the planning scheme.

What is the purpose of a referral?

The key purpose of the referral process is to give a person or body whose interests may be affected by a permit application the opportunity to provide advice to the responsible authority about whether a permit should be granted. Referrals are integral to the application process and avoid the need for referral authorities to establish their own separate land use and development assessment and approval processes.

5.4.1 Using Clause 66 of the planning scheme

All referral and notice requirements must be specified in clause 66 of the planning scheme.

Clause 66 identifies the type of referral authority for each kind of application that must be referred and the persons and bodies that must be given notice of particular kinds of applications under state standard provisions. This clause also enables a responsible authority to specify a referral authority and persons and bodies that must be given notice for a particular kind of application under a local provision.

Operation of Clause 66

Clause	Section	What it does...
66.01	55	Specifies the referral authority for particular kinds of subdivision applications.
66.02	55	Specifies the referral authority for particular kinds of use and development applications.
66.03	55	Specifies the referral authority for applications under other State standard provisions.
66.04	55	Enables a responsible authority to specify a referral authority for a particular kind of application under a local provision. The referral authority is listed in a local schedule to clause 66.04.
66.05	52(1)(c)	Specifies the persons and bodies that must be given notice of particular kinds of applications under State standard provisions.
66.06	52(1)(c)	Enables a responsible authority to specify a person or body that must be given notice of a particular kind of application under a local provision. The person or body is listed in a local schedule to clause 66.06.

See Chapter 3.3.1 of [Using Victoria's Planning System](#) for more information about the operation of clause 66.

5.4.2 Two types of referral authority

There are two types of referral authority - a *determining* referral authority and a *recommending* referral authority. The duties of the two types of referral authority are the same (as specified in section 14A of the Act) but their powers differ.

Both types of referral authority can object to the granting of a permit, decide not to object or specify conditions to be included on a permit. However, the effect of that advice on the final outcome of an application is different for each type of referral authority as shown in Table 3.

Table 3: Referral authority powers

Referral authority	Responsible authority obligations after the following actions from a referral authority:	
	Objects to the grant of a permit	Specifies conditions
Determining	the responsible authority must refuse to grant a permit	the conditions must be included in any permit granted
Recommending	the responsible authority may refuse to grant a permit	the conditions may be included in any permit granted

5.4.3 Are existing referral requirements necessary?

Planning authorities and referral authorities should together consider whether an existing referral requirement under clause 66.04 remains necessary or whether the referral can be dealt with by an alternative arrangement. The four-year review of the planning scheme provides a good opportunity to regularly evaluate the effectiveness of referral provisions in schemes.

Use standard agreements

The referral and notice requirements of clause 66 do not apply if, in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the referral authority. Avoiding the need to refer applications can speed up decisions.

An agreement may specify standard conditions that must be included on any permit granted. It may also specify requirements, which if satisfied by the proposal, means that the application does not need to be referred.

Agreements must be clear, easy to understand and publicly available (preferably on the responsible authority's website).

Specify standard conditions and requirements in the planning scheme

To avoid unnecessary referrals and delays, responsible authorities and referral authorities should consider including appropriately drafted standard conditions and requirements in the planning scheme. If a referral authority's standard permit conditions can be applied across all planning schemes then they should be included in a state standard provision. Otherwise, the relevant provision may enable permit conditions to be included in a local schedule. Section 62(1)(a) of the Act requires the responsible authority to include in a permit any condition that the planning scheme requires to be included.

Some planning scheme provisions also enable application requirements to be included in a local schedule. If a referral authority routinely requests specific information about particular kinds of applications, this information should be included as a standard application requirement in the schedule. Under section 47(1)(c) of the Act, an application must be accompanied by information required by the scheme.

It may also be possible to incorporate a referral authority's requirements into the description of the kind of application that must be referred. For example, if the referral authority is only interested in development applications within 30 metres of a waterway, this requirement could be included in the referral provision so that applications outside this distance do not need to be referred.

Change from a determining referral authority to a recommending referral authority

Some existing determining referral authorities may provide specialist or technical advice to the responsible authority that:

- assists the responsible authority in making an informed decision on an application but does not need to direct the outcome of the application
- needs to be balanced against other scheme requirements to achieve a net community benefit or produce acceptable state and local policy outcomes.

In these circumstances, consider whether the status of the referral authority should be changed from a determining referral authority to a recommending referral authority. A planning scheme amendment will be required to make this change.

Give notice rather than require referral

A planning scheme can require that specified persons be given notice of particular kinds of applications in accordance with section 52(1)(c) of the Act. Under section 38 of the *Interpretation of Legislation Act 1984* a 'person' includes a body politic (for example, a government department or authority) or corporate as well as an individual.

A person or body given notice under section 52(1)(c) of the Act has the same rights and obligations as any other person given notice of an application.

Consider whether giving notice of the application would meet the referral authority's requirements instead of referring the application. A section 52(1)(c) notice may be appropriate if the referral authority needs to be made aware of an application but does not need to:

- receive a copy of the application
- direct the outcome of the application.

5.4.4 Introducing new referral or notice requirements

When should a section 55 referral requirement be included in a planning scheme?

A new section 55 referral should only be introduced where either:

- the decision of the referral authority must direct the outcome of the application (a determining referral authority)
- the referral authority's specialist or technical advice is necessary for the responsible authority to properly assess and decide the application, but does not need to direct the outcome (a recommending referral authority).

A section 55 referral may be appropriate where a particular type of use or development requires case by case consideration by the referral authority to ensure that:

- implementation of a State Government policy or program is not adversely impacted, for example, the protection and management of Victoria's biodiversity or natural resources
- relevant specialist and technical advice is made available to the responsible authority
- proposed use or development will satisfy criteria or standards in other applicable legislation or regulations
- public assets, for example infrastructure, public open space or waterways, are protected.

Before introducing a new referral requirement, planning authorities and potential referral authorities should consider the following questions:

- What are the reasons for the referral? How do they relate to the purpose of the planning scheme provision that triggers the application?
- Should the decision of the referral authority direct the outcome of the application or should it be advisory only?
- Does the referral authority have resources and processes in place to ensure timely and effective advice, and to comply with the duties and requirements of the Act and Regulations?
- Will a referral provide a simple and effective means of implementing the referral authority's objectives? Would other mechanisms, for example, a notice requirement under section 52(1)(c) of the Act, be more effective?
- Can standard conditions and requirements be specified in an agreement between the referral authority and the responsible authority or in the planning scheme to avoid unnecessary referrals and delays?
- Can the description in the planning scheme of the kind of application that must be referred be drafted to avoid unnecessary referrals?

A referral authority should not be specified in the planning scheme simply because they may be useful in assessing certain types of applications or be used as a substitute for the responsible authority's own assessment of the application or if the existing powers of the authority under other legislation are duplicated through planning.

An amendment to a planning scheme to specify a person or body as a referral authority should only be prepared with the agreement of that person or body.

When should a section 52 notice requirement be included in a planning scheme?

A section 52 notice requirement should be used when the comments or advice of the person or body may influence the outcome of the application, but the circumstances do not warrant:

- that person or body receiving a copy of the application and prescribed information
- their comments or advice directing the outcome of the application.

Unlike a section 55 referral, under section 52(1)(c), only notice of the application is required to be given, not a copy of the application. Before including a new notice requirement in the planning scheme, the planning authority and the person or body to whom notice will be given may agree on additional information from the application that will accompany the notice. Otherwise, it is the responsibility of the person or body given the notice to view the application at the offices of the responsible authority.

Questions to consider before introducing a new notice requirement:

- What are the reasons for the giving of notice?
- Why would the person or body have a special interest in that kind of application?
- Should additional information about the application accompany the notice?
- Does the person or body have adequate resources and processes in place to respond to a notice?
- How can the description of the kind of application that the new notice requirement will apply to be drafted so as to avoid giving unnecessary notice?

See [Using Victoria's Planning System](#) for more information.

5.5 Creating a schedule to a general or administrative provision

The schedules to the provisions of clause 72 are primarily determined by the *Ministerial Direction - The Form and Content of Planning Schemes*. However, they do contain some elements that must be modified by the planning authority.

5.5.1 Clause 72.01 – Responsible authority for this planning scheme

The schedule to clause 72.01 determines who is the responsible authority for the various functions and duties of the planning scheme.

Responsible authority for administering and enforcing this planning scheme

The responsible authority will generally be the municipal council for the area covered by the planning scheme. The following wording should be used:

[Municipal council] is the responsible authority for administering and enforcing the planning scheme, except for matters specified in clause 72.01-1 and matters listed in this schedule.

Responsible authority for administering and enforcing a provision of this planning scheme

The planning scheme may specify a different responsible authority to the municipal council for a particular area of land or a provision in the scheme. Most commonly, the planning authority will specify that the Minister for Planning will be the responsible authority for a particular area or provision. The wording for determining an alternate responsible authority is:

The Minister for Planning is the responsible authority for administering and enforcing the planning scheme for:

It is not necessary to specify the various provisions of the Act or the powers the Minister for Planning may exercise as responsible authority unless those powers are not to be general in nature.

Person or responsible authority for issuing planning certificates

This will be the Minister for Planning or the responsible authority.

Responsible authority for VicSmart applications

This should usually be the Chief Executive Officer of the council, and expressed as follows:

The Chief Executive Officer of [municipal council] is the responsible authority for considering and determining VicSmart applications to which clause 71.06 applies, in accordance with Divisions 1, 1A, 2 and 3 of Part 4 of the Act.

5.5.2 Clause 72.02 – What area is covered by this planning scheme?

Area covered by this planning scheme:

This provision should use the following words:

The municipal district of [municipal council].

5.5.3 Clause 72.03 – What does this planning scheme consist of?

Maps comprising part of this planning scheme:

This provision lists the zone and overlay maps that comprise the scheme. Each map that comprises part of the scheme is listed in a bullet point in the schedule to this clause. The overlays contained within that map are specified in an abbreviated form with the corresponding map number, as shown in the following example:

- 1, 1HO, 1SBO, 1PAO, 1PO, 1EAO, 1NCO, 1VPO, 1DDO, 1SLO
- 2, 2DDO, 2SLO, 2LSIO, 2SBO, 2PAO, 2PO, 2EAO, 2HO, 2NCO
- 3, 3HO, 3LSIO, 3SBO, 3PAO, 3EAO, 3SLO, 3DDO, 3VPO, 3DPO, 3BMO
- 4, 4HO, 4LSIO, 4SBO, 4DDO, 4DPO, 4VPO, 4EAO, 4SLO
- 5, 5SLO, 5DPO, 5HO, 5LSIO, 5SBO, 5PAO, 5EAO, 5VPO, 5DDO
- 6, 6DPO, 6HO, 6LSIO, 6SBO, 6PAO, 6SLO, 6VPO, 6DDO

5.5.4 Clause 72.04 – Incorporated documents

State incorporated documents are specified in clause 72.04. Any local documents incorporated in the scheme must be listed in the table in the schedule to clause 72.04, in the format set out in the *Ministerial Direction - The Form and Content of Planning Schemes*.

5.5.5 Clause 72.05 – When did this planning scheme begin?

Specify the date the scheme began in the following format:

Day Month Year, for example: 1 January 2000

5.5.6 Clause 72.08 – Background documents

See Chapter 6.6.2 for information about using a background document.

5.5.7 Clause 74.01 – Application of zones, overlays and provisions

Clause 74.01 is used to provide a snapshot statement of how and why a requirement has been applied in a planning scheme.

Relevant zone, overlay and other requirement-based provisions are listed in sequence with the VPP and a short context statement is added for each provision.

The information in the schedule should give context to the relationship between the policies and requirements in the planning scheme.

5.5.8 Clause 74.02 – Further strategic work

Further strategic work should be a concise list of work the council intends to undertake before the next planning scheme review under section 12(B) of the Act (occurring on a 4 yearly cycle) and be set out in the schedule to this clause. The work must have a land use and development focus and must relate to matters that can be implemented through a planning scheme.

A responsible authority must not take this clause into account when making a decision.

5.6 Considering a site specific provision

There are three methods of dealing with site specific proposals or requirements in a planning scheme.

Method 1: Apply a special use zone

One of the special use zones may be used with an appropriate schedule. Generally, this method should only be used where a proposal is not discretionary in the zone that would otherwise apply to the land.

Method 2: Use the combined amendment/permit process to rezone the land to a suitable zone and issue a permit at the same time

If the land can be rezoned to an appropriate zone in which the proposal would be discretionary, the combined amendment/permit process can be used to rezone the land and issue a permit at the same time. Using this process avoids the need for two rounds of public consultation, allows the proposal to be considered in one process and maintains the permit as the instrument of development approval. More detail about this process is included in [Using Victoria's Planning System](#).

Method 3: Include the proposal in a Specific Controls Overlay

Under extraordinary circumstances and if none of the above methods is appropriate, a proposal can be included in the Specific Controls Overlay under clause 45.12.

Some earlier site specific controls are included in the table to the schedule to clause 51.01 (Specific sites and exclusions). However, this method is redundant and the Specific Controls Overlay must now be used.

Clause 45.12 should only be used for exceptional cases or to achieve a particular land use and development outcome that is consistent with a major issue of policy and is necessary to achieve or develop the planning objectives of Victoria.

5.7 Considering mandatory provisions

Victorian planning schemes largely consist of performance-based provisions that require an assessment to decide whether a proposal:

- meets relevant planning objectives
- achieves an appropriate balance between competing planning policies.

Performance-based provisions can facilitate variation and innovation in how a use or development is planned. They can also accommodate unforeseen circumstances peculiar to a particular application.

While mandatory provisions only provide fixed planning outcomes, there are circumstances where they are warranted. Mandatory provisions provide greater certainty and ensure a preferred outcome and more efficient process. Although mandatory provisions are the exception, they may be used to manage:

- areas of high heritage value
- areas of consistent character
- sensitive environmental locations such as along the coast
- building heights in some activity centres.

A balance must be struck between the benefits of a mandatory provision in the achievement of an objective against any resulting loss of opportunity for flexibility in achieving the objective.

5.7.1 What is a mandatory provision?

A *mandatory provision* is a requirement or control that must be met and provides for no opportunity to vary the requirement.

A *performance-based provision* (also called a *discretionary provision*) provides for flexibility in the method or measure used to achieve a required outcome.

5.7.2 When are mandatory provisions appropriate?

Mandatory provisions usually specify a maximum or minimum built form requirement. Most mandatory provisions are for building heights, but they can also relate to:

- site coverage
- plot ratio
- setbacks to buildings
- lot sizes
- open space areas
- sight lines.

Mandatory provisions may be considered if it can be demonstrated, through a detailed assessment and evidence-base, that discretionary provisions are insufficient to achieve desired outcomes.

The criteria below, provide a guide to assessing the appropriateness of a proposed mandatory provision. Each question should be fully considered and justified.

CRITERIA FOR APPLYING A MANDATORY PROVISION

Strategically supported

- Is the mandatory provision strategically supported?
 - Does the proposed mandatory provision have a solid strategic objective while having regard to the planning objective?
 - Does the proposed mandatory provision implement planning policy (state, regional or local)?

Appropriateness of departing from performance-based approach

- Is the mandatory provision an appropriate substitute for a performance-based provision?
 - Will most proposals that contravene the proposed mandatory provision lead to unacceptable planning outcomes?
 - Has the proposed mandatory provision been drafted to limit any unnecessary loss of the flexibility and opportunity available through a performance-based approach?
 - Have all other relevant performance-based provision options been explored?
 - Would policy or performance-based measures lead to the outcome prescribed by the proposed measure in most cases?
 - Is there evidence of adverse existing or proposed use or development that justifies the proposed control?

Facilitates required outcome

- Does the mandatory provision provide for the preferred outcome?
 - Is the proposed mandatory provision limiting? Does it only lead to one outcome from a number of suitable ones that would deliver on related planning policy?
 - Does the proposed mandatory provision avoid the risk of adverse outcomes in a way that a performance-based approach cannot?

The planning authority should also consider whether the proposed mandatory provision reduces costs for councils, applicants and the community.

Controls for mandatory height and setback for activity centres are dealt with in *Planning Practice Note 60 - Height and Setback Controls for Activity Centres*. That practice note outlines the level of work necessary to demonstrate that mandatory provisions are required and provides guidance on implementation approaches.

5.7.3 How to write mandatory provisions in planning schemes

In writing a mandatory provision, the provision should:

- implement an objective
- be clear in its intent to users
- be able to achieve consistent and predictable results
- be as measurable as possible using a quantifiable measure
- be expressed in plain English using common terms.

5.7.4 Where can a mandatory provision be specified?

Mandatory provisions can be specified in a zone or an overlay if required by the Victoria Planning Provisions.

The Design and Development Overlay or the Built Form Overlay are the most appropriate tools to implement mandatory built form requirements. Opportunities may also exist in some other zones and overlays to mandate controls.

A local planning policy is not a control. Local planning policies have a role to guide the exercise of discretion created by a zone, overlay or particular provision. Local planning policy cannot include mandatory provisions or remove a discretion under a planning control.

It is important to use clear language in both mandatory and performance-based provisions to ensure their effect is properly understood.

5.7.5 Further reading on mandatory provisions

Proposals for mandatory provisions have been dealt with by Planning Panels Victoria in numerous reports. Some helpful panel reports include:

- Bayside Planning Scheme Amendment C2
- Stonnington Planning Scheme Amendment C58
- Port Phillip Planning Scheme Amendment C52
- Queenscliff Planning Scheme Amendment C7
- Melbourne Planning Scheme Amendment C20
- Hobsons Bay Planning Scheme Amendment C11
- Mornington Peninsula Planning Scheme Amendment C204
- Stonnington Planning Scheme Amendment C272
- Bayside Planning Scheme Amendment C126
- Maribyrnong Planning Scheme Amendment C162
- Yarra Planning Scheme Amendments C293 and C291.

6 How to...

- 6.1 How to write for a planning scheme
- 6.2 How to include a map or diagram
- 6.3 How to write a Municipal Planning Strategy
- 6.4 How to write a local policy
- 6.5 How to write a schedule
- 6.6 How to apply external documents

6.1 How to write for a planning scheme

The *Ministerial Direction - The Form and Content of Planning Schemes* requires that a planning scheme and planning scheme amendment must be written in plain English.

There are many guides to plain English writing, including the Australian Government's online Style Manual, which includes information about clear language and writing style.

The advice in this chapter is specific to writing good quality planning provisions in plain English. It includes some quick tips and more specific advice about a range of matters that will be encountered when writing for a planning scheme.

Quick tips for writing for a planning scheme

- Write positively.
- Use active voice ('provide' not 'provision of').
- Use 'must' or 'will' rather than 'shall' if the action is mandatory.
- Use 'may' or 'should' if the action is optional.
- Keep sentences short. Avoid including too many ideas in a sentence.
- Stick to simple or common words like 'show' not 'demonstrate'.
- Keep the use of words consistent, do not change terms for no reason or for variety. Keep the same words for the same idea.
- The terms 'responsible authority' and 'planning authority' are not capitalised.
- Don't use archaic words like 'hereto', 'whilst' or 'notwithstanding'.
- Don't use Latin or French words like 'ultra vires'.
- Don't use unnecessary tautology like 'force and effect' or 'terms and conditions'.
- Avoid cross references to other parts of the scheme.

6.1.1 Make the requirements clear

Use 'must' or 'must not' if the requirement is mandatory.

- ✓ A building must be set back at least 3 metres from the front of the property.
- ✓ The building height must not exceed 21 metres.

Using 'must' is not always necessary to communicate clearly, but it has a directness that other forms of expression lack. For example:

- ✓ Motor vehicles must not be serviced or repaired for gain.
- ✗ No motor vehicle may be serviced or repaired for gain.

Use 'may' to confer a discretion for action. In the following example a permit may be issued but there is no obligation that it must be issued.

- ✓ A permit may be granted to vary any dimension or requirement of this clause.

Do not use 'should' for a mandatory requirement. 'Should' can be used in criteria and in expressing non-mandatory requirements in schedules to some overlays, for example the Design and Development Overlay.

Do not use 'shall'. Use 'must' instead.

Using 'encourage' and 'discourage' are useful in objectives but should not be used in requirements:

- ✓ A fence at the front of a lot should not exceed 1.2 metres.
- ✗ A maximum fence height of 1.2 metres will be encouraged at the street frontage.

6.1.2 Make discretion obvious

Make mandatory requirements explicit. Do not assume that a reader will understand what you mean:

- ✓ The following requirements must be met.
 - Building height must not exceed 21 metres.
 - Filling is not permitted.
- ✗ The following requirements should be met. A permit may be granted to vary these requirements if the responsible authority considers that the proposal will better meet the objectives of the overlay.
 - Building height should not exceed 21 metres.
 - Filling should not be undertaken.

6.1.3 Take care with definitions

Use words that have been defined in the Act, clause 73 of the planning scheme and the *Interpretation of Legislation Act 1984* in strict accordance with their definition. Individual local terms and definitions should be avoided in local provisions.

In situations where a term is not defined in these documents, it will be considered to have its ordinary or common meaning as defined in the Macquarie Dictionary, having regard to general principles of legal or statutory interpretation. Avoid using different terms interchangeably or using more than one term to apply one provision. For example, the following requirement has a number of problems:



The maximum building height in this precinct should not exceed 21 metres (6 storeys), including all roof structures, services, lift overruns and excluding architectural features only.

The planning scheme defines:

- **‘building height’** – the vertical distance between the ground level and the finished roof height directly above.
- **‘storey’** – that part of a building between floor levels. If there is no floor above, it is the part between the floor level and ceiling. It may include an attic, basement, built over car parking area, and mezzanine.

This requirement is unclear because of the differing thresholds applied by the two terms. For example, it is unclear whether a building less than 21 metres but with seven storeys is acceptable. Thresholds must be carefully applied to ensure the intent of a provision is clearly understood, particularly where more than one threshold is applied. Also, avoid using terms like ‘mid-rise’ and ‘high-rise’ without explaining what the terms mean.

The above requirement could be improved. For example:



Building height should not exceed 21 metres or six storeys (not including a basement), whichever is the lesser. No structure except an architectural feature may be constructed above the finished roof.

Before a new term or definition is used, consider why it is needed. The Act and the VPP provide a number of definitions and a provision should be drafted on the basis of these definitions.

A definition should not introduce controls. Metrics or other conditions, such as the requirements over the size and hours of operation should not be included in a definition. For example:



‘Live work development’ means a dwelling adapted for use as a home-based office provided the office component is less than 40 square metres and is not publicly accessible out of normal business hours.



‘Live work development’ means a dwelling adapted for use as a home-based office.

Any desired metrics or conditions on the use should be introduced through separate requirements in the provision.

6.1.4 Traditional Owner terms and place names

To honour and preserve Traditional Owner languages, planning authorities are encouraged to use Traditional Owner terms, particularly to identify places within planning schemes.

Traditional Owner place names may be applied in planning schemes by using either a registered or unregistered Traditional Owner place name.

Registered Traditional Owner place names

See the Register of Geographical Names [VICNAMES](#) to search for Traditional Owner place names in Victoria. These include registered 'dual names' where the non-indigenous name and Traditional Owner name of a place are combined to make the official place name. For more information on dual names, see the [Naming Rules for Places in Victoria - Statutory Requirements for Naming Roads, Features and Localities \(Department of Environment, Land, Water and Planning, 2022\) \(Naming Rules\)](#).

Unregistered Traditional Owner place names

An unregistered Traditional Owner place name may be used in planning schemes where:

- The Traditional Owner place name is widely known.
- Its boundaries are consistent with the boundaries of the place that is subject to the planning scheme provision.
- The relevant Registered Aboriginal Party/s (RAP) has agreed to the use of the place name. (Agreement can be established as part of the associated planning scheme amendment or a separate council process. Where a RAP is not in place, see the relevant Traditional Owner group, noting that more than one RAP or Traditional Owner group may have an interest in the affected land).
- Consistent naming is used for the place throughout the planning scheme.

An unregistered Traditional Owner place name may be applied by using the 'co-naming method' or by replacing the non-indigenous place name with a Traditional Owner place name.

Co-naming uses the registered name of a place, followed by the Traditional Owner place name. This naming method should be applied in an unabbreviated form, with both terms being capitalised and with brackets around the Traditional Owner name to distinguish the term. For example, co-naming 'Melbourne' using the Traditional Owner term 'Narm' would look like '**Moonee Ponds Creek (Moonee Moonee)**'. Where a Traditional Owner term becomes widely known, the order of terms can be swapped, for example '**Birrarung (Yarra River)**'.

Co-naming does not change the official registered name of a place. [VICNAMES](#) includes registered Traditional Owner place names and the Naming Rules explain how Traditional Owner place names may be registered and cited.

It is important to note that some Traditional Owner place names may not have a pre-set or defined boundary, particularly in cases where the place is shared with other Traditional Owner groups.

6.1.5 Sentence construction

Good writers apply several key techniques to sentence construction.

- Aim for an average of 15 to 25 words per sentence. Shorter, simple sentences are easier to read. They are also more likely to be grammatically correct.
- Place one idea in a sentence – avoid run-on sentences that connect multiple ideas with linking words and commas.
- Put the most important part of the sentence first.
- Avoid repetition – delete unnecessary words and information.
- Use dot point lists to break down units of information in a sentence.
- Use punctuation to organise a sentence into manageable units.
- Use simple, active sentences whenever possible. (Refer to Active or passive voice in Appendix 1)

6.1.6 Writing a list

Bulleted or dot point lists are commonly used in the planning scheme to set out requirements, criteria or expectations. Lists are a useful way of breaking up and clarifying complex sentences. Consider the following when creating a list.

Make your meaning clear

Each list item should read as a separate instruction or statement.

Put the list items in a logical order and keep related matters together to aid comprehension.

When sub-dot points are used, also ensure they have a logical sequence, contain only a single matter and do not overlap or conflict with other points.

Where a list imposes or exempts a matter from a control, be clear about whether all or some of the list items must be met. In policy, the whole list applies unless otherwise specified. Do not use 'and' or 'or' at the end of a point.

If necessary, use standard phrases in the introduction to make the requirement clear.



...must meet one or more of:
 ...must meet all of the following requirements:
 ...provided all of the following requirements are met:
 ...provided any of the following apply:
 ...if any of the following apply:
 ...unless one or more of the following applies:
 ...this does not apply to any of the following:

Alternatively, it might be better to rewrite the provision.

In the following example, it is not clear if the permit exemption requires compliance with one or both of the bulleted items.

	A permit is not required for an outbuilding if: • The building area is less than 50 square metres. • The building is set back more than 25 metres from any boundary.
---	---

This can be avoided by rewriting the provision to remove the ambiguity.

	A permit is not required for an outbuilding if <u>any of the following apply</u>: • The building area is less than 50 square metres. • The building is set back more than 25 metres from any boundary.
---	---

Another option is to write the provision as a single instruction, such as in the example below.

	A permit is not required for an outbuilding <u>provided</u> the building area is <u>either</u> less than 50 square metres or the building is set back more than 25 metres from any boundary.
---	---

Be consistent

Make the word type and tense consistent for the first word of each point. If you begin a list with a noun, continue using nouns; if you begin with a verb, continue with verbs.

	A permit is required to: • Construct (verb) two or more dwellings on a lot. • Extend (verb) a dwelling if there are two or more dwellings on the lot.
---	--

Punctuation for lists

The style convention in planning scheme list writing is to:

- Place a colon after the lead-in sentence to clarify the link with the indented information that follows.
- Format bullets with:
 - a square bullet (▪) for the first-level of dot point.
 - an en dash character (-) for a second-level sub-dot point.
 - a mini square bullet (·) for a third-level sub-sub-point where necessary. Avoid three levels if you can.
- Start each point with a capital letter. A point can include more than one sentence.
- End each point with a full stop.
- Semicolons, 'or' and 'and' are not used at the end of a point.

Refer to the style guide in the *Ministerial Direction - The Form and Content of Planning Schemes* for the correct styles to use.

In-sentence lists

Do not use in-sentence lists in a control. They may sometimes be suitable in a policy statement.

Only use an in-sentence list if the number of items is small.

Only use a colon to introduce list items if a complete sentence precedes the list.

- ✓ For this project you need tape, scissors and white-out.
- ✓ For this project you need three items: tape, scissors and white-out.
- ✗ For this project you need: tape, scissors and white-out.

6.1.7 Content longevity

Where possible, draft provisions to endure without the need for regular amendments. Avoid things like:

- Quoting census data, unless it will be regularly reviewed and updated.
- Naming external documents that are regularly updated – aim to include relevant content directly within the scheme.
- Citing cross-references to other clause numbers, except where it avoids content being repeated (e.g. maps).

Where a planning scheme cites population figures (usually within an MPS) the source and date should follow the statistic – e.g. (ABS, 2021).

6.2 How to include a map or diagram

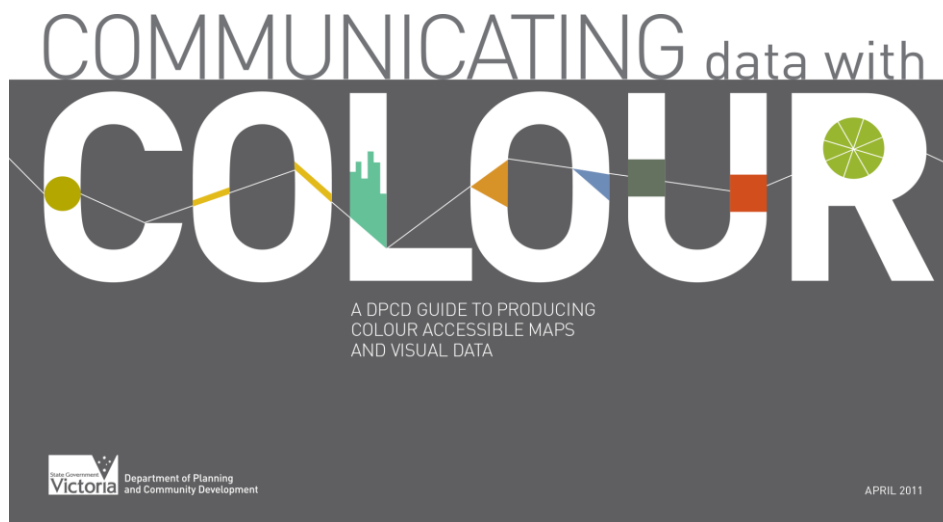
The *Ministerial Direction - The Form and Content of Planning Schemes* requires that any image in a planning scheme ordinance including a map must meet all of the following requirements:

- The image cropped and sized to fit the available space on the page with a maximum file size of 3,000 kilobytes and 300 pixels per inch (ppi).
- Be the only image on a horizontal line (that is, no images side by side or use of multiple images or layered images to make one single image).
- Have a title, reference number and border.
- The image title written as text outside of the image.
- Include a legend and source, where applicable.
- Include a north arrow and scale, where applicable.

When preparing a map or presenting visual data, aim for it to be readable in both:

- black and white
- by a person affected by colour blindness.

[*Communicating Data with Colour: A Guide to Producing Colour Accessible Maps and Visual Data*](#) (DPCD, 2011) is a useful guide for use of colour in maps.



6.3 How to write a Municipal Planning Strategy

The MPS is located at clause 02 and sets the basis for the local content in the planning scheme. It does not form part of the VPP as it consists only of local content. The structure of the MPS is set out by the *Ministerial Direction - The Form and Content of Planning Schemes* and includes:

- Context
- Vision
- Strategic directions
- Strategic framework plan.

The MPS must succinctly explain the context for a municipality and provide the overarching strategies for the major land use and development matters that affect it. Detailed policy belongs in clauses 10 to 19 of the planning scheme.

The content of the MPS should be easily read, expressed in a logical sequence and grouped by related land use and development themes. The preferred approach is to follow the PPF themes. This reinforces the strategic linkages between the PPF and the MPS, helps navigation and improves the ease of use of the planning scheme. PPF policy topics are addressed in the MPS based on the priorities of the municipality.

Information that is likely to become out of date before the next review cycle (about 4 years) should not be included.

To ensure the MPS focuses on priorities and provides a clear and direct message about a council's planning aspirations, the *Ministerial Direction - The Form and Content of Planning Schemes* specifies a word limit for the MPS. Plans are not included in the word limit.

An example MPS is provided in Appendix 3.

6.3.1 Context

The context is a concise half to one page description of the municipality in its regional setting. It should provide a very brief description of the geographic, economic, environmental and demographic qualities of the municipality. These should represent both the opportunities and challenges that establish the key land use and development issues to be addressed in the municipal vision and strategic directions.

The context should set the scene for what issues are important to the municipality and need to be addressed by the planning scheme. There is no need to provide extensive detail or state how the issue will be addressed in the context statement because this is the role of the strategic directions.

The context can be accompanied by a plan, if needed. A context plan is a useful tool to portray municipal context information 'at a glance'. This can be a separate plan or the information can be integrated with a strategic framework plan, if appropriate. Annotations can be used as required.

A context plan can illustrate the key features of the municipality and provide a regional context. It can convey further detail on an aspect of the municipality. For instance, if the population of individual towns is important to subsequent strategies, then that information can be conveyed by a map.

Population figures are often used to help explain the context of a municipality in the MPS. Only cite statistics in the MPS if it provides useful planning context and can be regularly reviewed and updated. Where statistics are used, the source and date of the data should be specified – e.g. (ABS, 2021).

Acknowledgement of Country

To acknowledge and honour Traditional Owners' strong and continuing connection to land within a municipality, a Municipal Planning Strategy may start with a short Acknowledgement of Country at clause 02.

In some instances, there will be more than one Traditional Owner group represented in an Acknowledgement of Country due to municipal boundaries being inconsistent with Traditional Owners' land boundaries.

To identify relevant Traditional Owner land for a municipality refer to the Aboriginal Cultural Register and Information System (ACHRIS) [live map](#).

6.3.2 Vision

The vision is an overarching statement of intent that describes the type of municipality a council seeks to create. It should be concise, typically half to one page, and can comprise one consolidated statement or a set of statements. The vision must focus on land use and development issues capable of being influenced by the planning scheme.

If the vision is derived from a vision statement sourced outside the planning scheme (such as from a council plan that addresses broader issues), that wider vision statement will need to be distilled into a vision for the MPS that focuses on land use and development.

The vision together with the strategic directions and strategic framework plan provide an opportunity to set out the local directions of the planning scheme, consistent with state policy in clauses 10 to 19.

6.3.3 Strategic directions

The strategic directions outline how a municipality will implement its vision and manage key issues relevant to the municipality. Strategic directions are the high-level policy intentions for the municipality that provide the basis for matters that are implemented through more detailed policy at clauses 10 to 19 or a planning scheme control.

Strategic directions are consistent with and build on state planning policy in the PPF and respond to the planning vision in a council plan.

The strategic directions must be supported by background strategic work that has already been undertaken by a council. If the work to support the strategic directions has not been undertaken, then that matter may be identified as further strategic work in clause 74.02 or elsewhere in a council work or business plan, not in the MPS. The strategic directions need to be evidence-based so that they can be reasonably implemented through the planning scheme.

The strategic directions should articulate what is most important to the municipality from a land use and development perspective and provide an understanding of why those issues are important. In particular, they may:

- set out how state and regional policy will be implemented at the municipal level
- articulate how identified issues will be addressed and how the vision will be implemented
- contain direction on matters such as opportunities for growth, a township or activity centre hierarchy, areas of environmental significance or any other topic that is relevant to land use and development within the municipality
- provide the policy basis for the application of controls and the local policies in clauses 10 to 19. A description of the relationship between a planning scheme's policy and controls should be set out at clause 74.01 (see Chapter 5.5.7)
- potentially provide direction on future change that is beyond the life of the planning scheme review period, provided that it is based on strategic work already undertaken.

Strategic directions should be grouped by theme and identified by sub-headings. The themes should follow those of the PPF for consistency and navigability. The strategic directions for each theme may be supplemented with a brief context (generally 1 or 2 paragraphs) to help explain the basis of the strategic directions. While this contextual information is written in the narrative form, strategic directions must be in bullet point form, so they are clearly identified. Each strategic direction should only express one idea.

These are examples of appropriate strategic directions:

- ✓ Encourage tourism uses in the Port Shipwreck township, particularly where they support the local farming and fishing industries. [This is a high level strategic direction and should be in the MPS.]

- ✓ Facilitate the provision of lower cost accommodation, social housing and housing for people of all abilities in and around the Gumnut town centre and neighbourhood centres. [This expands on state policy but is still a high level direction.]

Some examples of inappropriate strategic direction are:

- ✗ The town of Port Shipwreck is a district centre servicing surrounding settlements and a focus for tourism in the Shire. [This is a statement of context not a strategic direction. It would suitably preface a strategic direction.]
- ✗ A range of housing types should be provided in North Gumnut. [This is too general and does not provide any further guidance or direction beyond state planning policy and should not be included.]
- ✗ Support larger lots in Precinct 3 to ensure an appropriate interface with the Sun Moth Nature Reserve. Direct medium density housing to Precinct 1 which is within walking distance of the North Gumnut Railway Station. [This provides specific direction that will assist decision making and therefore belongs in the PPF.]
- ✗ The consideration of neighbourhood character is required in the assessment of infill housing development proposals within existing residential areas. There can be a tension in planning policy between urban consolidation objectives and the desire to respect residential amenity and neighbourhood character. [This requires consideration of neighbourhood character for infill housing and identifies that a conflict exists between development and neighbourhood character but gives no direction about how neighbourhood character is to be considered or how the identified conflict might be resolved.]

This would be better written as:

- ✓ Support infill housing development that respects the neighbourhood character of the area.
 - ✓ Facilitate a new character that complements important natural, cultural and historic built form and landscape values in urban consolidation and greenfield development areas.
- [The direction has been split and specifies that neighbourhood character in existing areas is to be maintained and identifies the areas where a *new* character would be supported. If necessary, this direction could be supported by the application of a Neighbourhood Character Overlay, a local variation to the Neighbourhood Residential Zone or a local policy on neighbourhood character.]

Ensure the strategic directions have a clear and direct basis in land use and development planning. Do not include directions that cannot be implemented by a planning scheme or are so vague that their relevance to planning is tenuous.

- ✘ Support the development of new skills and jobs.
[This direction is not land use and development focussed. A policy that seeks to facilitate particular industries (e.g. tourism or the intensive animal industry) would have the effect of supporting job creation but would have more relevance in planning decision-making. The direction should still explain how industry would be facilitated.]
- ✘ Monitor the impact of erosion on agricultural land and respond with appropriate measures.
[The planning scheme does not enact monitoring and it is unclear what an 'appropriate measure' is. This direction needs to be rewritten to address how planning will manage erosion on agricultural land. It should follow with local planning policy that explains the measures to be implemented.]

Often public realm aspirations to promote things like cycling and walking paths, safer roads or attractive gateway entries, do not need a planning permit to be realised, so cannot be included as policy in a planning scheme. In some instances, these directions might have a strategic aim – for example, in a growth area (i.e. that future subdivisions achieve a particular outcome). Whether a policy is a high-level strategic direction or a more detailed strategy in the PPF, its context needs to be made clear, so a user understands how to apply it.

6.3.4 Strategic framework plan

The strategic framework plan is a spatial representation of the key strategic directions for the municipality. The vision, strategic directions and strategic framework plan together provide the 'big picture' response to the opportunities and challenges facing a municipality.

The strategic framework plan:

- should show spatially how the municipality is expected to change as a result of the implementation of the planning scheme
- complements the policy in the MPS and where relevant, PPF. It cannot replace policy text. For example, a strategic direction must be in the text of the MPS and not solely on a framework plan
- should have a clear link with the strategic directions in the MPS and can be annotated to express the strategic directions on the plan
- may show matters such as directions for growth and development, housing frameworks, industrial land supply, productive agricultural land, strategic redevelopment sites, significant infrastructure, areas of environmental significance or areas where environmental risk must be managed or any other matter that the MPS identifies
- should do more than show existing conditions
- can be more than one plan if a single plan would not be legible.

6.3.5 Incorporated and background documents

Incorporated and background documents may be referenced in the text of the MPS where a document has directly informed the creation of a strategic direction. Documents that

generally inform the creation of the MPS do not need to be specifically listed within it. A council plan does not need to be referenced in the planning scheme. Its relevance is implicit.

The schedules to clauses 72.04 and 72.08 allow local incorporated and background documents to be listed in the planning scheme.

6.3.6 Application of zones, overlays and provisions

The schedule to clause 74.01 includes a general explanation of the relationship between the Municipal Planning Strategy, the objectives and strategies in clauses 10 to 19 and the controls in the planning scheme. It must be drafted as follows:

- List provisions in sequence with the VPP (i.e. residential zones first, with each of the residential zones being listed in order, and so on).
- Include a short statement of how or why the provision was applied. If the reason is obvious, do not list the item in the schedule – the application of some provisions is automatically evident (e.g. the Heritage Overlay, which is applied to heritage places of natural or cultural significance, or the Transport Zone to identify the transport system).
- Use a concise bulleted format – see the *Ministerial Direction - The Form and Content of Planning Schemes* for the prescribed format.

Example

This planning scheme applies the following zones, overlays and provisions to implement the Municipal Planning Strategy and the objectives and strategies in clauses 10 to 19:

- Low Density Residential Zone to:
 - Sewered residential lots of at least 0.2 hectare.
 - Residential areas in and around major towns.
- Township Zone:
 - To facilitate a commercial development where the separation of land uses is not critical to the function of the town.
 - Within the Janszoon Town Centre to facilitate mixed use development.
- Design and Development Overlay to manage the scale and design of development on land within the setting and backdrop area of the War Memorial.
- Floodway Overlay to floodplains in Inverleigh, Waratah Creek and Cumberland as identified by the Gumnut Catchment Management Authority.

Further strategic work

The identification of further strategic work may be useful for a council to set strategic priorities and obtain funding for a project. However, as these strategic intentions are not fully formed and have not had the benefit of strategic work to underpin them, there is a risk that they can be used as speculative policy and lead to decisions being made that are not based on adopted policy. The identification of further strategic work is not a requirement of the Act and does not form part of the MPS or PPF. Instead, this information may be listed in a

separate schedule to clause 74.02. A responsible authority is not required to take this clause into account when making a decision.

Where a list of further strategic work is provided in a planning scheme, it should comprise a concise list of work the council intends to undertake in the next review cycle (about 4 years). The work must have a land use and development focus and must relate to matters that can be implemented through a planning scheme.

6.4 How to write a local policy

6.4.1 The role and content of local policy

Local policy provides the detailed policy directions for a municipality. The role of local policy in the PPF differs from the MPS, which provides higher level strategic policy direction. Local policy helps a council to implement state policy in a way that is relevant to their vision for the municipality.

Zones, overlays, particular and general provisions are the primary implementation mechanism of the strategic policy directions in a planning scheme. Where a zone, overlay, particular provision or general provision provides all the direction required to make a decision, a local policy is not needed. Similarly, where statewide or regional policy provides all relevant direction required for decision making, a local policy is not required.

Local policy has a role in providing direction at a municipal level where:

- locally specific policy guidance is needed on a particular matter
- directions intersect with a number of controls (for example, urban design considerations may apply to multiple zones)
- guidance is needed to support decision making associated with a zone, overlay or other controls (such as non-residential uses in a residential zone).

Local policy has an important role in expressing the local objectives of a municipality and helping shape the kind of place a council wishes to create. As a result, it is important that policy be clear, concise, accurate and works towards achieving the intended outcome. Local policy complements the zones, overlays and provisions that are the primary implementation mechanism for the objectives of a municipality.

Ambiguity weakens policy. Ambiguous statements give rise to inconsistent interpretations that dilute the intent of policy. Ensure policy can be clearly and consistently interpreted.

Avoid repetition. Each policy should have a clear purpose that is distinct from other policies but flows to the next to create a well-rounded policy set. Once a point has been made, do not be tempted to repeat it in an effort to strengthen the message, even if it is expressed in a different way or a different part of the scheme. The only exception to this is within the MPS, where a local strategic direction may reaffirm a state planning policy to emphasise the importance of that policy to that municipality.

Local policy should only be used to provide locally specific direction for a municipality. It must not assume the role of state policy or take on a broader mandate.

A policy objective may be common across precincts or themes. If precinct-based policies have common directions across all precincts, rather than repeating the direction for each precinct, create an 'all precincts' section to the policy to communicate the message more efficiently. This approach also highlights the distinctive elements to the different precincts, strengthening the policy.

Policy should be written in plain English and must clearly articulate the outcome it seeks to achieve. Avoid making statements that do not provide direction, such as contextual information or descriptions, high level strategies (that belong in the MPS) or portraying the challenges involved in resolving a particular issue.

Good policy requires a deliberate and precise choice of words, careful sentence construction to eliminate superfluous content and proper use of grammar. Clear and concise policy writing that is straight to the point and uses the fewest possible words without sacrificing meaning makes writing more understandable to its audience.

Objectives and strategies are the key elements used to communicate the intent of a policy.

Objectives are a statement of what a policy seeks to achieve. Objectives must be clear, concise and be able to be implemented via the planning scheme.

Strategies are statements that outline how an objective is to be achieved. Strategies must be able to be implemented via a planning scheme.

At a local level, the MPS provides the 'why' of policy, an objective provides the 'what' and a strategy provides the 'how'. Policy guidelines are a more detailed form of 'how'.

In order to be included in the PPF, a local policy must meet suitability requirements relating to its content and drafting. These requirements are set out in Chapter 6.4.

6.4.2 Policy composition

This chapter explains how to populate content in clauses 10 to 19. This complements the structure provided in Annexure 3 of the *Ministerial Direction - The Form and Content of Planning Schemes*. The table below sets out the policy elements that can be used for a policy theme by each tier of policy. While not all policy elements need to be used, it is not possible to add additional policy elements.

Table 4: Use of policy elements

Policy Element	Function	State	Regional (if included)	Local (if included)
Title	Identifies the policy	Must be included	Must be included	Must be included
Policy application	Sets out where a policy is applicable	May be included	May be included	May be included
Objective	Sets out what the aim of a policy is	Must be included	May be included	May be included

Policy Element	Function	State	Regional (if included)	Local (if included)
Strategies	Specifies how a policy is to be achieved	Must be included	Must be included	Must be included
Policy guidelines	Provides detailed guidance on how a policy may be achieved	May be included	May be included	May be included
Policy documents	Lists directly relevant incorporated, background documents	May be included	May be included	May be included
Maps	Provides a visual expression of policy or sets out where a policy applies	May be included	May be included	May be included

Where needed:

- more than one regional or local policy may be included under a PPF theme
- more than one objective may be included for a local policy.

Policy title

All policies must have a title that identifies the policy. The title should be short but descriptive, such as 'East Myrtle neighbourhood character' or 'Shadow Bay gateway built form design'.

The word 'policy' must not be included and the title must accurately reflect the content of the policy.

Policy application

Policy application identifies where the policy applies.

As local policy is often more targeted in nature than a state policy, a local policy will more often identify where (or to what type of application) a policy applies.

Local policy should relate clearly to a specific discretion or group of discretions in the planning scheme and can relate to an area or both. A policy application must be consistent with the content of the policy. If the strategies contained within a policy relate to use *and* development, then make sure this is reflected in the policy application.

The land area or type of application a policy applies to must be clearly defined so that the policy can be appropriately applied.

A policy that applies to an entire municipality does not need its application stipulated. Clause 71.02-2 states that a planning policy applies to all land subject to the planning scheme unless the policy specifies otherwise.

Where a policy applies can be identified using one of the following techniques:

- If a policy applies to a specific area already defined in the planning scheme, identification can be achieved by a brief statement such as:

This policy applies to all planning applications for rural industry in the Farming Zone and the Rural Conservation Zone.

- If a policy applies to all applications in a specific area that has not been defined in the planning scheme, a map must be included with the local policy that defines the area of application. Use words such as:

This policy applies to land shown in the East Gumnut urban renewal precinct map.

- If a policy applies to certain types of use or development, use a written description. For example:

This policy applies to applications for residential development of five or more storeys.

- If a policy applies to a site that has a specific address, then it can be identified by that address. For example:

This policy applies to the land at 112-216 Lorikeet Way, Timothy Crossing.

Do not use long, written descriptions for a policy area boundary. Use a local policy map that clearly identifies the boundary of the policy area using precise markers such as property boundaries, roads (including the road names), waterways and railways.

Objective

An objective and its associated strategies convey the key policy directions of the planning scheme. An objective sets out the core purpose of a policy.

State policy: Each state policy will comprise an objective with supporting strategies. State policy must include an objective as it sets out the overarching direction for each policy.

Regional policy: A regional objective is only included if it expands on the state objective, with the region's particular policy emphasis or distinction. If a regional objective is absent, a regional strategy is read in the context of the state objective. A regional objective must not repeat a state objective.

Local policy: Local objectives must be relevant to the municipality and should only be included if they expand on a state or regional objective with a particular local emphasis or distinction.

Where a local objective is absent, a local strategy is interpreted to be implementing the state or regional objective. There can be more than one objective in a local policy, although the number of objectives should be minimised wherever possible.

If a local objective repeats a state or regional objective, then it must not be included.

Objectives must be expressed to make clear what outcome is being sought, keeping in mind that a policy can only relate to the exercise of a discretion under the planning scheme.

Strategies

Strategies describe how an objective is to be achieved. In the case of a local policy, a strategy may describe how a strategic direction from the MPS is to be achieved. Every statewide policy objective in the PPF is supported by a set of strategies. Further strategies may be provided at a regional level if needed and these can respond to the state objective

or a regional objective if one has been identified. Additional strategies may also be provided at the local level that:

- expand on or refine a statewide objective or strategy
- expand on or refine a regional objective or strategy (where relevant)
- expand on a strategic direction in the MPS
- respond to a local objective (where relevant).

A regional or local strategy must not repeat a statewide strategy. Similarly, a local strategy must not repeat a regional strategy. The practical outcome of this is that if there are no specific strategies that expand on or refine either state or regional policy, then no policy is required at a local level. This also applies to regional strategies that do not expand on or refine state policy.

Where strategies directly support a state or regional objective then the objective does not need to be re-stated. It is essential that the strategies be focused on the implementation of a policy that can be achieved through the application of a planning scheme.

Each strategy should express only one idea. Avoid long or multi-sentence strategies. Instead, where a strategy is complex and lengthy because it has a number of directly interrelated elements, use bullets to break down the information to help relay the information more clearly.

Policy guidelines

Planning policy must be sufficiently flexible to allow for alternative solutions to achieve the outcome sought. Sometimes greater direction through explicit measures, may more effectively direct an outcome. In most instances, specific (often numerical) requirements can be included in a schedule to a zone or overlay.

However, there may be some measures that clarify an expectation of how a policy can be met that:

- are too prescriptive for policy
- may represent one way of achieving a desired outcome, where other suitable options may be available
- intersect with a number of zones and overlays.

Examples of such measures include specifying recommended hours of operation for non-residential uses in residential zones or the preferred number of vehicle crossings in a neighbourhood character precinct. These measures can be set out in the PPF as policy guidelines.

Decision guidelines and application requirements are not policy guidelines.

Policy guidelines are an optional part of policy and are not a substitute for a control. They are generally only required in exceptional circumstances. Proper use of zone and overlay schedules together with robust strategies in policy will usually avoid the need for policy guidelines.

In addition to meeting the rules outlined in Chapter 4 a policy guideline must:

- directly derive from an objective or strategy in a policy (at the state, regional or local level) and set out a clear expectation of how an objective or strategy can be met
- provide a standard that guides the exercise of discretion for a decision-maker
- be based on appropriate data or research
- not repeat or contradict controls in a zone, overlay, particular or general provision. This would include not repeating application requirements or decision guidelines
- not attempt to prohibit an alternative outcome that meets the objective(s) of the policy
- be the only appropriate implementation measure to convey the guideline because:
 - an appropriate alternative VPP instrument is not available or
 - an inefficient or complicated implementation would be needed using a number of zones and overlays.

Operationally, policy guidelines must be taken into account, but are not required to be given effect to (unlike objectives and strategies). A permit applicant can propose an alternative method, but must still demonstrate that any proposed alternative satisfies the relevant objective or strategy.

State and regional policies can also include policy guidelines.

Policy documents

There are two types of documents that can support local policy in the PPF - incorporated and background documents. State planning policy also includes some legislative references and references to ministerial directions.

Policy (and other provisions) should generally be self-contained and include the information necessary to assess and decide an application. Where additional, more detailed guidance is absolutely necessary, it can be provided through an incorporated document.

If a policy relies on an incorporated document then it must be referenced in the policy as a policy document and a decision-maker must consider it, as relevant, when making a decision.

For more information about incorporated documents, see Chapter 6.6.1.

Background documents provide information to explain the context in which a particular policy has been framed. A background document may explain why particular requirements are in the planning scheme, substantiate a specific issue or provide background to a provision. As background documents are not part of the planning scheme, the substantive planning elements of the document (such as built form guidelines or the like) will have been included in the planning scheme in either a local policy or a schedule.

Where a background document is directly related to a policy in clauses 10 to 19 it may be referenced in that specific policy as well as the schedule to clause 72.08. If a background document relates to a substantial number of policies (such as a Regional Growth Plan) it should not be repetitively referenced in the PPF. The schedule to clause 72.08 enables a consolidated list of local background documents to be maintained in the planning scheme.

Practice notes are not suitable to be referenced as background documents.

For more information on background documents, see Chapter 6.6.2.

Policy maps

Maps can be an important part of understanding the locational aspects of a local policy. Maps are required where a policy application refers to a geographic area not already mapped elsewhere in a planning scheme. Where a policy area is adequately mapped elsewhere (such as ‘all land within the General Residential Zone Schedule 1’) or it can be identified by an address, a map is not required.

Maps complement a policy and can be important in providing the spatial understanding of a policy. They cannot be a substitute for policy. Any policy content (such as a strategy or an objective) must be in the text of the policy.

Maps should be digital (not a scanned copy of a paper map) and be of sufficient resolution to ensure that relevant details can be read. If a map outlines precincts, the boundaries of those precincts must be clearly identifiable. Maps must conform to the requirements of *Ministerial Direction - The Form and Content of Planning Schemes*. Use more than one map if that will convey the information more clearly.

6.4.3 Applying the PPF policy elements

Differentiating policy elements

The PPF’s ongoing legibility relies on each of the PPF policy elements being properly applied.

Knowing how each of the policy elements differ, how they relate to strategic directions in the MPS and how the state, regional and local policy levels interact is key to maintaining a concise, consistent and navigable planning scheme. The table below summarises Chapter 6.4.2 above, explaining the key characteristics of the main PPF elements and how they relate to the strategic directions of the MPS.

The table and subsequent examples are provided to help clarify the difference between the policy elements.

Table 5: MPS and PPF policy elements

Policy Element	Function	Key characteristics
Strategic direction [MPS]	Over-arching municipal policy	• Outlines the important local planning policies for the municipality • Can reiterate a state planning policy, where the direction seeks to emphasise a key issue for the municipality.
Objective [PPF]	Key policy direction (whether state, regional or local)	• Sets out what the aim of a policy is • Outcome-based • Local objectives only required in exceptional circumstances – where there is a need to expand on a state objective or strategy.

Policy Element	Function	Key characteristics
Strategy [PPF]	Detailed policy describing how an objective, state strategy or an MPS strategic direction is to be achieved	- Specifies how a policy is to be achieved - Is sufficiently flexible to allow for alternative solutions to achieve the outcome sought.
Policy guideline [PPF]	Prescribed policy options describing how a local strategy may be implemented	- Provides detailed guidance on how a strategy is to be achieved - Gives explicit/prescriptive measures - Typically represents one way of achieving a desired outcome, where other suitable options are available - Only required in exceptional circumstances - Robust strategies coupled with zone and overlay provisions will usually avoid the need for policy guidelines - Unlike decision guidelines, policy guidelines are directive. They do not consist of neutral considerations.

The example below shows how strategic directions may restate a state planning policy to highlight a key issue for a municipality. Duplicate policy is, however, not provided for within the PPF, as the integrated nature of the framework eliminates the need for any replication.

Reiterating state planning policy in MPS – Example

Strategic directions [MPS]	Protect life and property from bushfire events. [clause 02.03-3 Gumnut Planning Scheme] Manage the urban bushfire threat interface of towns in areas prone to bushfire risk. [clause 02.03-3 Gumnut Planning Scheme]
State Planning Policy [PPF]	To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. [clause 13.02-1S]

Some further examples of the main policy elements discussed in Table 6 are set out below. Chapter 6.4.2 above explains the operation of other policy elements, such as policy application and policy documents.

Positioning policy in MPS and PPF – Example 1 – Scenic values

Strategic direction [MPS]	Protect the environmental, landscape and scenic values of the Gumnut Ranges. [clause 02.03-2 Gumnut Planning Scheme]
State Planning Policy [PPF]	To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments. [clause 12.05-2S] The State Planning Policy (SPP) also includes several relevant strategies.
Local Planning Policy [PPF]	

• Objective	To ensure development respects the scenic qualities of the Gumnut Ranges. [12.05-2L Gumnut Planning Scheme]
• Strategies	Design development near ridgelines and hilltops to follow the profile of the land on which it is sited. [12.05-2L Gumnut Planning Scheme] Minimise earthworks or removal of vegetation near ridgelines and hilltops. [12.05-2L Gumnut Planning Scheme]
• Policy guidelines	Consider as relevant: • Avoiding earthworks or removal of vegetation on lots with a slope greater than 20 per cent. [12.05-2L Gumnut Planning Scheme]

Positioning policy in MPS and PPF – Example 2 – Protecting farmland

Strategic direction [MPS]	Discourage fragmentation of farming land and an over-supply of rural living land. [02.03-4]
State Planning Policy [PPF]	To protect the state's agricultural base by preserving productive farmland. [14.01-1S] The SPP also includes several relevant strategies.
Local Planning Policy [PPF]	
• Objective	N/A - The State Planning Policy establishes a clear and extensive basis for the local strategies below.
• Strategies	Discourage subdivision and accommodation that does not directly support the use of land for agriculture. [14.01-1L] Retain agricultural land in parcels of sufficient size for agricultural purposes. [14.01-1L] Discourage subdivision that is not for the purpose of excising an existing dwelling that is excess to the requirements of a rural use. [14.01-1L] Restructure lots to create a smaller lot for a dwelling instead of the creation of additional lots. [14.01-1L]
• Policy guidelines	Consider as relevant: • A maximum lot size of 2 hectares for any dwelling. • Whether any excised dwellings are in habitable condition. [14.01-1L]

Positioning policy in MPS and PPF – Example 3 - Signs

Strategic direction [MPS]	Protect and enhance the municipality's valued streetscapes by managing the scale, intensity and form of development. [02.03-5]
State Planning Policy [PPF]	Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate. [15.01-1S]
Local Planning Policy [PPF]	

• Objective	To promote signs that make a positive contribution to the streetscape. [15.01-1L]
• Strategies	Encourage signs that are proportioned and designed to complement the host building and site. [15.01-1L]
• Policy guidelines	Consider as relevant: • Limiting under-verandah signs to: ○ One sign per building. ○ A maximum of 1.5 square metres in area. • ... [15.01-1L]

Positioning policy in MPS and PPF – Example 4 – Caretaker’s house

Strategic direction [MPS]	Preserve and grow employment in Gumnut by protecting industrial and commercial areas. [02.03-3]
State Planning Policy [PPF]	To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts. [13.07-1S] The SPP also includes relevant strategies at clause 13.07-1S and in clause 17.
Local Planning Policy [PPF]	
• Objective	N/A – The State Planning Policy establishes a clear basis for the local strategy below.
• Strategies	Protect business and industry by preventing dwellings from establishing in industrial and commercial zones where a dwelling is prohibited. [13.07-1L]
• Policy guidelines	Consider as relevant: • Whether a caretaker’s house is legitimately associated with and ancillary to any commercial or industrial use on the land by: ○ It being above ground level and self-contained. ○ It comprising less than 10 per cent of the total floor area of the associated commercial or industrial use (excluding car parking and loading bay areas) or 100 square metres, whichever is less. ○ There being a need for a caretaker to oversee the commercial or industrial property when it is unoccupied or to supervise its operation. [13.07-1L]

Grouping of objectives, strategies and policy guidelines

Where a local policy provides multiple objectives, it is more easily understood when relevant strategies are grouped with or linked to the objective they derive from. Group or link like objectives with their relevant strategies and any associated policy guidelines in a clear way, considering the content of the policy. Grouping long lists of objectives and long lists of

strategies without distinguishing their relationship should be avoided. The reader should be able to clearly and efficiently identify the strategies that support an objective.

This is the preferred structure for a multi-objective policy:

XX.XX-XL Desed moluptatio

Objective

To fugia desed moluptatio officiustior.

Strategies

Ximolo volessit, nobis int odit vernate.

Imperit offic test quis et in rest vel et ma.

Objective

To lum nimaio nam et quat et, aute dollaut voles.

Strategies

Caboribearum, volore venis et repedig entur.

Nam conet aliquametur, quodionseque id.

Ut andio ex est vollamet experrere pre.

Occatecus et opta quibea natecesequi.

The exact grouping of objectives, strategies and policy guidelines (if needed) is flexible and depends on the content of the policy and how it should be best laid out in order to ensure the policy is useable. Objectives and strategies may be grouped by precinct or under thematic sub-headings depending on the content and complexity of a policy.

Tables may only be used in the PPF where it would present information more clearly and efficiently than in the standard format.

PPF objectives and strategies are un-numbered. Bullets are applied to policy guidelines and policy documents.

6.4.4 Policy themes

In clauses 10 to 19, the state, regional and local levels of policy are grouped by theme, with directly relevant regional and local policies 'nested' under the corresponding state planning policy where policy is in place at those levels.

When preparing a local policy for the PPF, an assessment of the relevant policy themes is required to understand how best to prepare and place a policy. Each local policy will address a particular theme. That theme needs to correspond with a relevant state policy theme. For instance, a local policy that relates to neighbourhood character would be placed under clause 15.01-5 (Neighbourhood character) and a policy that relates to the subdivision of agricultural land would be placed under clause 14.01-1 (Protection of agricultural land).

There will be instances where a policy primarily relates to a particular theme but has minor references to other related matters, which may suggest that certain strategies should be split out under alternative policy themes. However, in these instances, the policy can be placed under its dominant theme rather than splitting the policy up unnecessarily. For example:

- A local policy that relates to developing an area as a focus for technology and research but contains a reference to accommodation (such as only allowing accommodation uses that support the technology and research uses) can remain as a single policy.
- If a sign policy relates only to the appearance of a sign in a heritage area, the policy can sit with clause 15.03-1 (Heritage conservation). However, if a set of strategies broadly relate to the urban design aspects of signs, but the policy has a component that relates to heritage, then those strategies should remain together under clause 15.01-1 (Urban design).

When placing a local policy in the PPF, the content of the relevant state policy (the objectives and strategies) must be examined closely to determine the kinds of policies that can be placed with it. The state policy headings will not always indicate the full range of policies allowed under a policy. For example, clause 15.01-1 (Urban design) reads:

Objective

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

Strategies

Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.

Ensure development contributes to community and cultural life by improving the quality of living and working environments, facilitating accessibility and providing for inclusiveness.

Ensure the interface between the private and the public realm protects and enhances personal safety.

Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.

Ensure that the design and location of publicly accessible private space, including car parking areas, forecourts and walkways, is of a high standard, creates a safe environment for users and enables easy and efficient use.

Ensure that development provides landscaping that supports the amenity, attractiveness and safety of the public realm.

Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.

Promote good urban design along and abutting transport corridors.

If you only have regard to the heading and the objective, it may not be immediately apparent that a local policy on signs belongs under this particular policy. However, if you look at the second last strategy (in bold above) this policy clearly relates to signs and allows a local policy on signs to be placed under it.

Multiple policies on a single theme

Multiple policies can be added to the one theme. If a planning scheme includes a policy that relates to student housing and another that relates to rooming houses, both of these policies can sit under clause 16.01-1 (Housing supply) as separate local policies. If there are two local policies on different activity centres then they can both sit under clause 11.03-1 (Activity centres) as separate local policies.

Numbering and labelling of policy

As regional and local policy is nested under the relevant state policy, the regional or local policy uses the same clause number as the state policy. The three tiers of policy are distinguished using the following letter codes:

- state policy is identified with an 'S'
- regional policy is identified with an 'R'
- local policy is identified with an 'L'.

17.04 Tourism

17.04-1**S** Facilitating tourism

17.04-1**R** Tourism – Gippsland

17.04-1**L** Nature-based tourism

Multiple policies at the regional or local level can be distinguished by having unique titles.

17.04 Tourism

17.04-1**S** Facilitating tourism

17.04-1**R** Tourism – Gippsland

17.04-1**L** **Nature-based tourism**

17.04-1**L** **Tourist accommodation**

Both the clause number and the title are used to identify a policy. The local planning policy heading does not need to match the corresponding state or regional planning policy heading. Tailor local policy headings to reflect the substance of the policy.

There may be multiple local or regional policies with the same clause number. Clause numbers must follow the form set out by the *Ministerial Direction - The Form and Content of Planning Schemes*.

Where a planning scheme has multiple policies under one theme, sub-numbering may be used to differentiate the policies where it will support discoverability. A format using the standard policy numbering, with the addition of a numerical suffix, in the following form, should be applied where sub-numbering is sought:

12.05-2L Landscapes

12.05-2L-**01** Coastal and hinterland landscapes

Place-based policies

Place-based policies can be an important part of implementing a strategic vision for an area. When assessing a permit application within a place where specific outcomes are sought, it is important to understand the wider context of the vision for the place and therefore there is a dedicated section for place-based policies in clause 11.03 (Planning for places).

An appropriate place-based policy under clause 11.03 is a policy that relates to a specific geographic location or area and seeks to comprehensively develop that place in a cohesive and multi-faceted way. It includes broad-ranging thematic policies, often for an activity centre or an urban renewal precinct or a township with a specific strategic plan such as a structure plan. The policy may include detailed policy direction relating to use, urban design, building design (including overall scale and building form), advertising signs and the like.

Clauses 11.03-1 to 11.03-5 deal with specific place types such as activity centres and growth areas. Clause 11.03-6 deals with other types of places that are not already addressed in clauses 11.03-1 to 11.03-5, such as an urban renewal precinct or township.

Use the following guidelines when preparing a place-based policy under clause 11.03. A place-based policy must:

1. Apply to a specific, discrete spatial area. The area to which the policy applies must be mapped showing clear, defined boundaries.
2. Have a common objective that is achieved using strategies that negotiate different PPF themes.
3. Provide guidance specific to that place. If the provisions are generic and apply across multiple places or to the whole municipality, they should be located under the relevant thematic heading.
4. Include content relating to multiple issues where there are interrelationships between those issues or interdependencies between related strategies that require an integrated policy approach to provide a coherent strategic narrative. If the policy content relates to just one or two discrete themes, these will be better located under the relevant thematic headings.
5. Result in a clearer and simpler representation of the policy than if it were thematically distributed across the PPF, including avoiding undue repetition of a common objective.
6. Not focus on high level strategic directions about the role of a place, as these are better located in the MPS.
7. Not replicate content in specific controls that apply to the place, such as a Design and Development Overlay. However, there may be benefit in providing a brief cross-reference to a specific control where it would support the coherence of a policy.

Policies that are about a place but are centred on a specific theme, are not suitable to be included in clause 11.03 as a place-based policy even if they have a 'place based' title. These policies will need to be thematically distributed as they lack the multi-faceted form and inter-dependencies that would warrant inclusion in clause 11.03. For example, a policy for an industrial area that outlines preferred urban design and has some direction regarding locations for uses does not qualify for inclusion in clause 11.03. This kind of policy would need to be distributed under clause 15.01 (Built Environment) and clause 17.03 (Industry) respectively, depending on the detailed content.

The Place-based Policy Checklist at Appendix 4 is a useful checklist to help guide the application of clause 11.03.

Avoiding over-use of clause 11.03 will help preserve the thematic framework of the PPF and support the transparency and legibility of planning schemes.

6.4.5 Dealing with particular local policy themes

Most local policies will be easily categorised in the PPF. Some will be less obvious. This chapter looks at some major policy themes and potentially complex policy themes to explain how to best distribute them in the PPF.

Accommodation uses

Policies relating to the location and quality of particular types of housing such as student housing, group accommodation belong under clause 16.01-1 (Housing supply). Policies on aged care facilities belong under clause 16.01-5 (Residential aged care facilities).

Amenity, human health and safety based policies

Clause 13.07-1 (Land use compatibility) relates to the management of uses and their associated amenity, human health and safety impacts such as:

- conflicts between uses within a zone (such as non-residential uses in residential zones or caretaker's residences in industrial areas)
- uses at the interfaces of different zones (such as dwellings that abut an industrial zone)
- policies about uses with a particular focus on the kinds of amenity impacts they generate, such as sexually explicit entertainment venues.

Animal keeping and animal training

- Clause 14.01-2 (Sustainable agricultural land use) accommodates policies on animal keeping and training.

Childcare centres

Policies relating to childcare centres and kindergartens can be placed under clause 19.02-2 (Education facilities).

Dams

The general policy themes relating to dams can be assigned to the following PPF clauses:

- Water supply: policies relating to the provision of dams for the purpose of supplying water for farming belong in clause 14.01-2 (Sustainable agricultural land use).

- Waterway function: policies ensuring that dams do not affect the function of a waterway. These policies belong in clause 12.03-1 (River and riparian corridors, waterways, lakes wetlands and billabongs).
- Flooding: policies ensuring that dams do not create or exacerbate flooding impacts to adjoining properties belong in clause 13.03-1 (Floodplain management).
- Erosion and landslip: policies ensuring that dams do not exacerbate erosion or cause landslips should be located in clause 13.04-2 (Erosion and landslip).

Design for rural areas

Clause 15.01-6 (Design for rural areas). This policy theme seeks to ensure that development in rural areas is consistent with and enhances the surrounding rural character. This would include policies relating to buildings in rural areas, development along tourist routes or approaches to townships and development on hilltops and ridgelines. This policy relates to design for more general rural areas. For significant landscapes or other sensitive natural areas, see clause 11.03-5 (Distinctive areas and landscapes) or clause 12.05 (Significant environments and landscapes).

Development adjacent to highways

A policy that has the specific purpose of ensuring that development adjacent to highways does not adversely affect the function of the road belongs in clause 18.01-1 (Land Use and Transport Integration).

Environmentally Sustainable Development

Environmental Sustainability Development (ESD) is addressed throughout the PPF under a range of different themes. Local policies about ESD are encouraged to be integrated into the PPF under the appropriate themes.

Heritage

Policies relating to the general treatment of development within heritage areas can be located under clause 15.03-1 (Heritage conservation). However, policies that contain statements of significance and detailed precinct-specific design guidelines cannot be accommodated within the PPF and should be located in the schedule to the Heritage Overlay.

Sealing of roads and road construction

Policies relating to the sealing of roads or road construction belong in clause 18.02-4 (Roads).

Signs

Policies relating to signs can be loosely categorised into a few types. There are policies giving guidance on the appearance of signs, policies relating to signs along major transport routes and policies relating to signs in heritage areas. These policies can be categorised within the PPF as follows:

- Design of signs: policies that give guidance relating to the appearance of signs and the treatment of different types of signs (including road safety) belong under clause 15.01-1 (Urban design).
- Road signs: policies relating to signs along major transport routes such as Eastlink or the Metropolitan Ring Road belong under clause 18.02-4 (Roads).

- Signs in Heritage areas: if a sign policy solely relates to the appearance of signs within a heritage area, it can sit with clause 15.03-1 (Heritage conservation). If a policy broadly relates to the urban design aspects of a sign and has a component that relates to heritage, the policy can remain under clause 15.01-1 (Urban design).

See Appendix 5 for a more complete list showing where local policies can be located in the PPF.

6.4.6 General PPF drafting tips

Chapter 6.1 sets out useful drafting guidance for planning provisions. Some further tips relating to policy drafting are discussed below.

Audience

Most planning policies apply to decision-makers, permit applicants as well as other parties. When drafting policies write for the whole audience, unless the policy is targeted to a particular stakeholder.

 Encourage owners of significant buildings within heritage precincts to preserve the streetscape character by...

 Preserve significant buildings within heritage precincts by...

 Require that potential air quality impacts, including odours and emissions are assessed. *[instruction to planners]*

 Demonstrate that commercial or industrial waste management practices, storage and disposal are carried out with a minimum of odour and noise disruption to nearby residential properties.

 Minimise odour and noise disruption to nearby residential properties from commercial or industrial waste management practices, including storage and disposal.

In the example above, it is unclear who needs to demonstrate that the policy has been met. In the first version, while it could be presumed that the instruction is for an applicant, it could also be read as if it puts the onus on the responsible authority. The revision makes it apply evenly to the whole audience of the policy, as a planning consideration.

Advocacy & collaboration

Policy cannot stipulate promotional or collaborative actions. This is beyond the scope of the planning scheme's influence.

 Advocate for the protection of the environment.

 Work with the state government to develop a coordinated plan for the Gumnut corridor urban renewal precinct.

Procedures

Procedures or future actions are not policy. Do not use the PPF to prescribe processes and actions.

-  Encourage appropriate assessment methods to achieve environmentally sustainable design outcomes.
-  Define a township boundary for all towns that identifies the current extent of the township and accommodates future growth.

[Further strategic work]

Word choice

Accurate word choice is critical to providing clear direction. Be mindful when using terms such as:

- Appropriate
- Ensure
- Best practice
- Consider
- Recognise
- Acknowledge
- Which or that
- High quality

'Appropriate'

-  Encourage **appropriate** development in the Eucalyptus Way Precinct.
-  Encourage development of up to four stories in the Eucalyptus Way Precinct.
-  Set buildings fronting Eucalyptus Way back from the street frontage to allow for the planting of canopy trees.
-  Ensure front fences and gates provide an **appropriate** level of privacy and security.

Avoid using vague adjectives such as 'adequate', 'appropriate' or 'inappropriate' in isolation of an explanation of what is adequate etc.

'Ensure'

-  Ensure non-residential uses do not cause amenity impacts to adjoining and nearby dwellings.
-  Minimise impacts from non-residential uses on the amenity of adjoining and nearby dwellings.
-  Ensure all areas for waste collection facilities are screened from the street and adjoining residential properties.

Be careful with the term 'ensure' – only use the term when the outcome can be ensured.

‘Best practice’

‘Best practice’ distinguishes a method or technique that has consistently shown results superior to those achieved by other means. It is used as a benchmark. Avoid using the term unless a best practice has been suitably established and is properly understood and articulated in the planning system.

In policy, it is more useful to simply set out what is sought to be achieved, whether best practice or otherwise. This leaves a reader in no doubt about the outcome being sought.

‘Consider’, ‘Recognise’ and ‘Acknowledge’

-  **Recognise** the existing character of Sugarplum Boulevard.
 -  Support development that respects the existing low-scale, uniform character of Sugarplum Boulevard.
-
-  **Consider** whether there is a need to consolidate land in the same ownership if it is considered that the consolidation would facilitate the productive use of rural land.
 -  Encourage the consolidation of land in the same ownership if the consolidation would facilitate the productive use of rural land.

Use more directive wording in place of terms like ‘consider’, ‘recognise’ or ‘acknowledge’, which are open to misinterpretation and give little guidance.

‘Which’ or ‘That’

-  Discourage signs **which** obscure major view lines.
-  Discourage signs **that** obscure major view lines.

If a policy:

- Does not need the latter part of the sentence, use ‘which’ – i.e. where it only provides added context or may be read as a digression.
- Does need the latter part of the sentence, use ‘that’ (the effect of the policy would be different without it – for example, by having a broader effect).

The example above demonstrates how the use of ‘which’ or ‘that’ may change the effect of a policy. The council’s intent was to discourage only those signs having the effect of obscuring major view lines, not all signs.

‘High quality’

-  Provide **high-quality** building facades.
-  Provide **high-quality** building facades made from durable and attractive materials and finishes that complement surrounding buildings and provide visual interest.

When seeking ‘high-quality’ outcomes, be more directive about what the term means in the context of the policy.

Narrowed focus

- ✗ Avoid **incremental** incursions into environmentally sensitive areas beyond the boundaries of land reserved future for urban development.

Be careful when adding words that inadvertently narrow the focus of a policy. In the example above, adding the word 'incremental' narrows the policy to just incremental incursions when in this instance, any incursion should be avoided.

Colloquial and promotional language

Keep language simple and professional and avoid emotive, casual or popular conversational language or terms that are uncertain. For example, where a policy seeks to make a place 'colourful', 'exciting', 'vibrant', 'cosmopolitan' or 'green', or where you may seek 'statement' design. Using too many abstract terms makes your writing vague and your message unclear.

Information requirements

Matters such as information requirements or 'application requirements' are not statements of policy and do not form part of the PPF. Most overlays provide for matters such as locally defined objectives, decision guidelines and application requirements to be set out in a schedule.

Information requirements are best recast as policy. For example:

- ✗ Provide a traffic impact assessment where there is a material traffic impact.
- ✓ Minimise material traffic impacts.

- ✗ Require an application for demolition to be supported with documentation which demonstrates:
 - That the demolition will contribute to the long-term conservation of the building fabric.
 - That the demolition involves the removal of later uncomplimentary modifications.
 - That the cultural heritage significance of the place will be enhanced.
- ✓ Support demolition where it:
 - Contributes to the long-term conservation of the building fabric.
 - Involves the removal of later uncomplimentary modifications.
 - Enhances the heritage significance of the place.

Once the basis for a local policy is established in the PPF (i.e. a matter to be considered or an outcome being sought), an application checklist outside of the planning scheme can be used to supplement the local policy. The checklist could include a list of any information that may be required for an applicant to demonstrate that they have complied with the policy.

6.4.7 Regional policies

In addition to local planning policy, the Minister may include state planning policy in the form of a statewide policy or regional policy.

A regional planning policy may be applied for matters of state or regional significance, where a unified policy response across municipal boundaries is warranted. The land affected by a regional policy does not need to be contiguous.

Regional policies cannot be used for the purpose of introducing common policies of local significance across multiple planning schemes.

6.5 How to write a schedule

6.5.1 What a schedule does

In addition to the local policy content in the MPS and the PPF, a schedule is a means of including local content in a planning scheme. By providing local context and local refinement, a schedule can ‘fine tune’ a planning provision to align it more effectively to local circumstances and local planning objectives.

6.5.2 When can a schedule be included?

A schedule must be included in a planning scheme where the *Ministerial Direction - The Form and Content of Planning Schemes* makes provision for it. If there is no local content proposed for the schedule, the words ‘No content’ must be inserted to make it clear that there is no content intended for that particular matter.

A schedule must always use the format set out in the Ministerial Direction.

If the Ministerial Direction does not provide for a schedule, a schedule cannot be included.

6.5.3 Good practice for drafting a schedule

A schedule should communicate clearly to the user by being technically accurate, easy to interpret and easy to apply. Writing a good schedule requires a clear understanding of:

- the planning objective being sought
- the extent to which the parent provision needs to be augmented by the schedule to achieve the planning objective
- the requirements for schedules set out in the Ministerial Direction
- writing in plain English.

Whatever task the schedule is performing, consider the guidelines set out below:

- A schedule must be read with other planning controls
- The local content in a schedule should help to implement a planning objective
- The local content in a schedule should be strategically justified
- The purpose of a local requirement must be clear
- The local content in a schedule can only do what the parent provision enables
- The local content in a schedule should not duplicate other provisions

- The local content in a schedule should have a legally certain meaning
- The local content in a schedule should be easy to read.

These guidelines are explained below.

A schedule must be read with other planning controls

A schedule adds to the parent control that it is derived from. It is essential to understand the parent control before writing a schedule. Reading a schedule in isolation, or reading other controls without reading a relevant schedule, will give an incomplete picture of the provisions of the scheme.

The local content in a schedule should help to implement a planning objective.

Schedules are a key tool to adapt the provisions of zones and overlays to implement strategies contained in the PPF.

Schedule provisions should have a strategic justification in the MPS or PPF and must not conflict with policy objectives. Some clauses in the PPF contain specific guidance that the content in a schedule must be consistent with.

Before drafting a schedule, look at the relevant policy objectives and strategies. Ask how they can best be implemented and whether they need the specific controls of a schedule. A local policy in the PPF may be an appropriate alternative. See Rule 2 at Chapter 4.2 and Rule 4 at Chapter 4.3.

The local content in a schedule should be strategically justified

Local content in schedules can change the provisions in a scheme if the 'parent provision' enables this to happen and there is sufficient strategic justification.

For example, a schedule to the Design and Development Overlay can specify that a permit is not required to construct a building or construct or carry out works because clause 43.02-2 in the Design and Development Overlay specifically allows for this.

Such changes must have a strategic justification. The planning authority must be able to demonstrate that the change that they propose addresses clearly identified planning objectives. See Rule 2 at Chapter 4.2.

Changes should be enabling rather than prescriptive. The creation of a new discretion or the removal of a permit requirement where proposals of a particular type meet defined planning objectives can be valid uses of a schedule. The use of a schedule to prohibit use or development allowed by the 'parent provision' will seldom be justified. See Rule 4 at Chapter 4.3.

The purpose of a local requirement must be clear

A requirement of a schedule must be capable of achieving the planning outcomes sought by the 'parent provision' and the objectives or purposes of the schedule. A requirement that cannot measurably achieve the planning outcome sought by the 'parent provision' or the schedule should be avoided. See Rule 6 at Chapter 4.3.

Schedules can use a range of requirements such as performance standards, decision guidelines, application requirements, exemptions and the need for plans or conditions on

approvals. One type of requirement may better achieve the planning outcomes of a 'parent provision' and the schedule than others.

The local content in a schedule can only do what the parent provision enables

A schedule can only do the tasks enabled by its 'parent provision'. Using a schedule for a function not provided for in the parent provision is beyond the power of the schedule. See Rule 5 at Chapter 4.3.

Generally, zones control use and development while overlays control only development; however, there are some exceptions to this. The parent provision may restrict the scope of the schedule to only specified aspects of use or development. For example, in the Industrial 1 Zone, the only matter able to be managed by a schedule arises from the condition relating to 'Office' in the table of uses, which enables a schedule to specify a maximum leasable floor area.

Read the parent provision carefully to identify the scope of the schedule and ensure that the schedule is consistent.

The local content in a schedule should not duplicate other provisions

When drafting a schedule, the other provisions that apply to the affected area should be considered with care. If they contain controls that already meet the planning objectives for the area, the schedule should not duplicate these. See Rule 3 at Chapter 4.2.

The local content in a schedule should have a legally certain meaning

Take care when writing a schedule to use terms consistent with their meaning in the Act, the *Interpretation of Legislation Act 1984* and clause 73 of the planning scheme. See Rule 7 at Chapter 4.4.

Terms that are not defined in the planning scheme or legislation take their ordinary meanings as defined in the Macquarie Dictionary. Avoid introducing specific local definition in local provisions. Using a term that is new to the planning scheme may make the meaning of a schedule uncertain, causing dispute, delay and expense if the term has to be legally interpreted. Always check that the dictionary meaning of an undefined term aligns with the intention of the provision.

The local content in a schedule should be easy to read

Schedules should be drafted using the plain English guidance set out at Chapter 6.1. See Rule 8 and Rule 9 at Chapter 4.4.

6.5.4 What can a schedule do?

An overview of the various tasks that a schedule can perform is provided below.

Use controls

Some schedules allow a planning authority to specify particular requirements about how land may be used. Schedules to zones typically fall into this category. The requirements can range from setting maximum leasable floor areas for specific uses to creating a table of uses. Examples of schedules that allow the planning authority to specify permit and other

requirements for the use of land include the commercial, industrial and rural zones and the special purpose zones.

Subdivision controls

Some schedules allow a planning authority to specify particular requirements about how land may be subdivided, such as including a minimum lot size. Examples of this type of schedule include the rural zones.

Buildings and works controls

Many schedules allow a planning authority to specify particular requirements about how land may be developed. These schedules can be used to exempt certain forms of development from the need for a permit or to require a permit for certain forms of development. Examples of this type of schedule include the Farming Zone and the Development Plan Overlay.

Sign controls

A small number of schedules allow the planning authority to determine sign requirements for a parcel of land or particular land-use activity. The schedule to the Urban Floodway Zone, Special Use Zone, and Design and Development Overlay are examples of this type of schedule.

Statements of significance, objectives and decision guidelines

Some schedules enable the local definition of statements of significance, objectives or decision guidelines for particular areas. These schedules provide the greatest opportunity to adapt the basic provisions of a zone or overlay to recognise the special characteristics of an area. They can also cause confusion to planning scheme users and be easily misinterpreted or be inconsistent with state policy if poorly written. Examples of schedules that allow the planning authority to specify statements of significance, objectives and decision guidelines include the Environmental Significance Overlay, Vegetation Protection Overlay and Significant Landscape Overlay.

Information about the scheme

The schedules to clauses 71 and 72 can also provide information about a planning scheme, such as its contents, the name of the responsible authority, the scheme area, scheme maps and incorporated and background documents.

Special tasks

Some special functions are also carried out by schedules, such as the prohibition of gaming machines in a specific shopping complex or shopping centres under clause 52.28.

6.5.5 Schedule names and numbers

Schedule names

The *Ministerial Direction - The Form and Content of Planning Schemes* makes provision for each local schedule to include a unique name. The name can help to identify the geographical scope of the schedule. For example, a schedule to the Environmental

Significance Overlay could be called the 'BRISBANE RANGES' schedule. A name can also encapsulate the objective that the schedule serves. For example, a schedule in the Vegetation Protection Overlay could be called the 'COASTAL HEATH PROTECTION' schedule. The name should be short and descriptive. It should not include the word 'OVERLAY'.

Schedule numbers

The *Ministerial Direction - The Form and Content of Planning Schemes* enables some zones and overlays to have more than one schedule. For these zones and overlays, every schedule must be given a number, even if only one schedule is provided. It is recorded in the scheme and on the maps with the appropriate designation followed by its number. For example, Schedule 1 to the Special Use Zone is shown as SUZ1. Schedule 4 to the Vegetation Protection Overlay is shown as VPO4.

Where a provision is only able to have one schedule, the schedule is not numbered.

6.5.6 Using tables in a schedule

Defining land areas and specifying conditions

Where specified, tables can be used in schedules to define particular land and specify requirements that relate to the land.

Where the land area is large or includes multiple parcels, a written description is likely to be complex and difficult to understand. It is preferable to include a map in the schedule. See Chapter 6.5.14 for more about using a map in a schedule. See Chapter 6.2 for general advice about using a map.

Tables of uses

Schedules to the special purpose zones enable the planning authority to construct tables of uses. Like tables of uses in zones, schedule tables divide land uses into three sections and provide for the inclusion of conditions:

- **Section 1 – Permit not required** – Uses should only be made 'as-of-right' (permit not required) by inclusion in Section 1 of the table of uses where they address the purpose of the schedule and are unlikely to require later detailed appraisal or cause significant off-site impacts or conflicts.
- **Section 2 – Permit required** – Other uses should normally fall within Section 2, enabling the responsible authority to exercise discretion. Where a land use term is not listed in the table, it is automatically in Section 2 and can be the subject of a permit application.
- **Section 3 – Prohibited** – Uses should only be prohibited where they conflict with, or are irrelevant to, the purpose of the schedule and the consideration of permit applications would consequently waste the resources of the proponent and the responsible authority.

Tables of uses must use the land use terms and follow the nesting diagrams in clause 73. If the head of a nested group of land use terms is intended to be a Section 2 use and there are no exemptions anywhere else in the table, then it does not need to be listed.

Conditions can be used to fine tune a defined land use term. If a condition is included opposite a term, the table can also specify what happens if the condition is not met. For example, a condition in Section 1 may specify that there must be only one 'Small second dwelling' on a residential lot. The use would only need to be mentioned in Section 2 if a further condition was proposed. If it is intended that the use be prohibited if the Section 1 condition is not met, the use must be listed in Section 3 with the provision '– if the Section 1 condition is not met'.

Where a schedule contains a table of uses, the *Ministerial Direction - The Form and Content of Planning Schemes* sets out a number of requirements. Several drafting conventions help to make the meaning of a table more certain.

See the example below for some writing and formatting advice.

Example schedule

A schedule that includes a table of uses must include land use terms and conditions in the sections specified in the Ministerial Direction *The Form and Content of Planning Schemes*.

If a nested land use term is used in a Section, the head of the nest and an exemption must also be listed in the table.

For example:

- 'Marina' (other than 'Mooring pole') is included in Section 1.
- 'Marina' is included in the 'Recreational boat facility' nest of terms. The term 'Recreational boat facility' has purposefully been included in Section 3 to avoid discretion being created to use land for a 'Boat launching facility'.
- 'Mooring pole' is included within the term 'Marina'. It has been specifically excluded in Section 1 and 3, but specifically included in Section 2, to enable a permit application for this use to be considered.

GUMNUT PLANNING SCHEME

SCHEDULE 1 TO THE SPECIAL USE ZONE

Shown on planning scheme map as **SUZ1**

Each schedule must be given a number.

GUMNUT BAY RESORT DEVELOPMENT

Some schedules enable a heading to be included to identify the area or matter the schedule relates to.

Purpose

To provide for development of the Gumnut Bay Resort and Marina.

Section 1 - Permit not required

USE	CONDITION
Marina (other than mooring pole)	Must be located in accordance with the Resort Incorporated Plan.
Mineral exploration	
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.

Section 2 - Permit required

USE	CONDITION
Accommodation	Must not be used as shared housing-accommodation.
Mooring pole	
Shop	Must be located in accordance with the Resort Incorporated Plan.

The table must not include a provision that is inconsistent with the PPF. For example, this condition is inconsistent with clause 16.01-6S which prevents a scheme from prohibiting or requiring a planning permit for shared housing or crisis accommodation up to ten habitable rooms.

Section 3 - Prohibited

USE
Agriculture (other than Apiculture)
Marina (other than Mooring pole) - if the Section 1 condition is not met
Recreational boat facility (other than Marina)
Retail premises (other than Shop)

The term '...if the Section X condition is not met' is part of the land use term, not a condition.

FORMATTING TIPS

The format of the table must be consistent with the VPP and the Ministerial Direction *The Form and Content of Planning Schemes*.

Put a thin line above and below any land use that is subject to a condition. This makes it clear which land use term the condition applies to.

Don't put a full stop at the end of a land use term. Do put a full stop at the end of a condition.

Land use terms are in bold text, whether or not they are defined in clause 73.

List land use terms alphabetically in each section.

If a land use term (including any exemption) uses more than one line, indent the second and subsequent lines so that it is clear that it is an independent term.

6.5.7 Setting minimum and maximum floor areas

Some schedules allow the planning authority to specify a maximum leasable floor area for specific uses or minimum areas or setbacks. These provisions have a valid use to support strategic objectives, for example, to safeguard the function of an established office node in a commercial area. However, the use of any such provision should have a strategic justification in the MPS or PPF.

A provision should not act as a prohibition (implied or otherwise) on a use without satisfactory justification.

6.5.8 Statements of significance

Some schedules to overlays require a statement to be inserted. For example, the Environmental Significance Overlay requires 'a statement of environmental significance' and the Vegetation Protection Overlay requires 'a statement of the nature and significance of the vegetation to be protected'.

These statements are intended to summarise the essential elements that define the significance of the overlay area.

Where possible, the statement should be based on study findings that clearly demonstrate the values that make the area special, and show how those values relate to the purposes of the chosen overlay. For example, a landscape study might provide the analysis from which to draw the statement for the schedule to the Significant Landscape Overlay.

It may be appropriate to reference such studies as background documents, but it should not be necessary to refer to them in order to understand what the real significance of the place is. The reader of a statement should be able to understand why an area is special from the statement alone.

Statements of significance in the Heritage Overlay

While the Heritage Overlay (HO) can apply a wide range of controls to heritage places, it does not establish the significance of any particular heritage place. Any new heritage place included in the schedule to the Heritage Overlay after 31 July 2018 must have a statement of significance specified in the schedule. If detailed heritage design guidelines are required for a heritage place they may be specified in the schedule. Any statement of significance or heritage design guidelines that are specified in the schedule must also be incorporated into the scheme in the schedule to clause 72.04.

6.5.9 Objectives

Some schedules require objectives to be inserted. These objectives are specific aims or ambitions for the use, development, management or conservation of an identified area. The objectives apply in addition to any objectives elsewhere in the scheme.

Schedule objectives flow from three sources:

- the objectives and strategies of local content in the MPS and PPF
- the purpose of the zone or overlay

- where one is present, the statement of significance in the overlay.

Objectives are key to the interpretation and application of the discretion created by the zone or overlay. All decisions will be tested against them.

An objective should begin with the infinitive form of the verb. For example:

To promote the appropriate reuse of historic commercial buildings.

A good objective will:

- avoid what is self-evident and go beyond bland statements that nobody can disagree with
- point the way to decision outcomes
- not be an outcome itself, but be achievable by a variety of outcomes
- respond to significance with local distinctiveness
- be grounded in reality, not wishful thinking
- not contradict or confuse other objectives in the planning scheme
- express one idea only, not a complex set of ideas.

A schedule may need to refer to more than one idea in its objectives. To do this, include multiple objectives rather than have a single complex objective. To keep objectives focussed, the *Ministerial Direction - The Form and Content of Planning Schemes* provides for up to five objectives in most schedules.

6.5.10 Permit requirements

Permit requirements in a schedule should supplement those in the other provisions that apply to the land.

Permit requirements in a schedule may state that a permit is required. For example, the schedules to the rural zones state that a permit is required for certain buildings or works above thresholds specified in the zones.

Permit requirements can also state that a permit is not required. For example, the public land zones state that a permit is not required to use land, to construct a building or to carry out works provided that any condition in the schedule is complied with.

Some schedules create an additional permit requirement, where there was none before. This is sometimes referred to as 'scheduling in'. Such a requirement can add to the permit requirements of the other provisions applying to the land. It can also remove all or part of the exemptions from a permit for minor works set out in clause 62.02-2. This ability is particularly relevant to environmental management overlays. If land has a particular character or significance that justifies the application of the overlay and is reflected in its objectives, then buildings or works that may not meet the overlay objectives should always require a permit.

Alternatively, some schedules remove the need for a permit in circumstances where the other provisions applying to the land contain a permit requirement, making a proposal as-of-right. This is sometimes referred to as 'scheduling out'. It can be a useful method of locally defining a performance basis for decision making on a particular theme or area in a

planning scheme. A schedule can define objectives and conditions to be met. If a proposal meets these, it can be exempted from the need for a permit. Scheduling out removes the political and community accountability that would normally apply to a use or development. It should not be used in cases where the planning authority takes the view that the loss of this accountability would give rise to significant issues of third party or community conflict or detriment.

Care should be taken to ensure that where a schedule can 'schedule in' or 'schedule out' permit requirements, the schedule is consistent with this structure. For example, if a permit requirement is to be 'scheduled in', the permit requirement should only identify those uses or developments that require a permit, rather than applying a blanket permit requirement and then setting out a list of exempted uses and development.

Any permit requirement, or exemption from a permit requirement, included in a schedule must be clearly capable of achieving the objectives or purposes of the zone or overlay or its schedule. A permit requirement or exemption that cannot be objectively and measurably linked to achieving the desired planning outcome should not be used.

6.5.11 Decision guidelines

Many schedules can include additional decision guidelines that require the responsible authority to give specific consideration to a particular issue or fact in addition to any relevant decision guidelines elsewhere in the scheme.

A decision guideline should be 'neutral' and set a 'test' for the decision, not the answer.

- ✓ Whether the siting, height and appearance of a building or works detrimentally affect the landscape qualities of the area
- ✗ The impact of the development on coastal scenic vantage points. [This does not provide guidance for a decision.]

Decision guidelines should relate to the schedule objectives that they serve and any statement of significance, if one is present. They may refer to a document but only if the document is incorporated in the scheme. A decision guideline should not refer to a background document.

A decision guideline should not include an informal referral requirement.

- ✗ The views of the Central Coastal Board.

6.5.12 Referral requirements

Schedules to overlays that respond to particular technical requirements such as the safeguarding of airports (Airport Environs Overlay) or earth resources (State Resource Overlay) can include specific referral or notice requirements for applications. These referral and notice requirements are also specified in clause 66 and local referral and notice requirements must be specified in the schedules to clause 66. See Chapter 5.4 for more information about referrals.

6.5.13 Signs

Some schedules enable the sign provisions that apply to land to be varied. This should be done only if the existing sign provisions do not respond to the purpose of the zone or overlay, or any zone or overlay objectives.

6.5.14 Maps in schedules

Where land is defined in a schedule, unless a clear and succinct description of the land can be given in words, a map should normally be used to define it. If there is already a map in the scheme that defines the land, the schedule can refer to this. Where a new map is required, this should normally be on a scaled map base and should show distinctive or named geographic features, such as roads and rivers, that enable the boundaries of the land to be identified with certainty. The use of diagrammatic or sketch maps can lead to uncertainty.

There are four ways of using a map to define land in a schedule:

- If multiple schedules to an overlay can be used, the overlay on the planning scheme map must be annotated to show that it relates to a particular schedule. For example, Schedules 1 to 4 to the Vegetation Protection Overlay are shown as VPO1 to VPO4 on the map. Further mapping will not be needed. Where possible, this is the preferred method of mapping schedules.
- If only one schedule can be used but the schedule applies different controls to different parcels of land, the geographical scope of the schedule can be mapped on the planning scheme map and a separate schedule map. The schedule map would show the 'break down' of where the different controls apply. The map should be headed 'Map (number) to the Schedule to clause (number)' and placed at the end of the schedule after the last text. It does not need to be referred to as an incorporated document in clause 72.04 of the scheme.
- Alternatively, the planning scheme map can be annotated to show that different controls in a schedule apply to different parcels of land. For example, different height controls applied to four different areas in a schedule to the Design and Development Overlay are shown as DDO1-A1, DDO1-A2, DDO1-A3 and DDO1-A4.
- If none of these methods can be used, a map to a schedule can be an incorporated document. If a map is an incorporated document, the schedule must refer to it as such.

See Chapter 6.2 for advice about using a map.

6.5.15 Requiring a plan

Some schedules to special use zones and built form overlays allow the incorporation of, or reference to, a plan and may specify particular issues that the plan must address. Some determine whether a permit can be granted for development that is not in accordance with the plan. Some provide for proposals that comply with the plan to be exempt from normal notice and appeal rights.

Zones or overlays that do not specifically provide for the incorporation of or reference to a plan should not be used for this purpose where a more appropriate zone or overlay exists.

6.5.16 Conditions and requirements for permits

Some schedules can include conditions or requirements that a planning permit or class of planning permits must contain. This can be useful where the schedule has been applied to deal with a site or development that involves a wide range of uses. Conditions applying to particular uses in particular locations can assist in reducing or eliminating concerns at the boundary with another sensitive use. For example, conditions could relate to noise emissions or hours of operation, where commercial premises are proposed to be located next to a future residential area.

6.6 How to apply external documents

Planning schemes may reference particular studies, strategies and guideline documents to direct decision making, affect the scheme's operation or provide background to provisions. This can be achieved by incorporating documents into the planning scheme or using background documents.

It is important to avoid inclusion of external documents wherever possible to keep schemes user-friendly and self-contained. Provisions should ideally be drafted to be stand-alone and not rely on external documents. In most instances, it is preferable to extract relevant decision making content from a document and insert that information directly into the scheme.

Incorporated documents and background documents each play a different role in planning. Careful consideration should be given to the status given to a document in a planning scheme. How to use incorporated and background documents is discussed below in Chapters 6.6.1 and 6.6.2.

Incorporated documents are introduced into the planning scheme by way of a planning scheme amendment. This usually occurs as part of an amendment that introduces the corresponding policy or provisions. Background documents are also introduced by way of an amendment but they are not incorporated, rather they are just referenced.

If a document is updated or is no longer relevant, the planning scheme must also be updated to be consistent. The explanatory report for the amendment should make clear what has changed from the earlier version of the document and should confirm the proposed status of the document.

Webtools are not 'documents' and are not assigned an incorporated or background document status. Webtools differ from documents in the planning system in that they may include changeable content and are dependent on electronic software for computations. Webtools in planning schemes cannot provide mandatory controls (as is possible with an incorporated document). A webtool may be referenced in a planning scheme as a non-statutory tool, such as part of a policy guideline or decision guideline instead of using a document when:

- The content is more effectively addressed in a webtool over a document.
- It performs a function beyond the scope of a static document.

- The content relies on an interactive format (e.g. calculators or assessment tools such as Melbourne Water's STORM calculator).
- It is made available online.

6.6.1 How to incorporate a document

What is an incorporated document?

An incorporated document is a document that needs to be read in conjunction with the planning scheme for the effect of the scheme to be understood.

An incorporated document carries the same weight as the other parts of the planning scheme. As part of the planning scheme, the planning authority can only change an incorporated document by a planning scheme amendment.

When should a document be incorporated?

Where possible, avoid incorporating documents. This keeps the scheme self-contained and makes it easier to use. It is always preferable to extract the specific planning requirements from a document and state them directly in the scheme.

The decision to incorporate a document should only be considered when there is no suitable alternative in the scheme to achieve the required outcome. For example, a document should not be incorporated to specify requirements where an existing provision of the scheme enables requirements to be specified.

A document should be incorporated if the document is:

- Essential to the administration or enforcement of the planning scheme, that is, without the document the scheme cannot be properly understood. *The Code of Practice for Timber Production* is an example.
- Necessary to determine the extent of a planning control or whether planning permission is required. *The Code of Practice for Telecommunications Facilities in Victoria* is an example. Without this document, it is not possible to tell whether a permit is required for a telecommunications facility or not.
- Required to be incorporated under an Act, a Ministerial Direction (including the *Ministerial Direction - The Form and Content of Planning Schemes*) or a specific planning provision, such as an incorporated plan under the Incorporated Plan Overlay.
- A statement of significance under the Heritage Overlay (see Chapter 6.5.8).

How is a document incorporated in the scheme?

A document is only incorporated in the scheme if it is specifically listed in clause 72.04 or the schedule to clause 72.04. If a document is not listed in clause 72.04 it is not an incorporated document, even if it is mentioned elsewhere in the scheme.

Naming an incorporated document

When preparing an incorporated document, always include the details of the author and a publication date (including month and year) as part of the colophon or copyright-page. Avoid maintaining a different date for a document in the title of an amended document. If a version history is required, this can be listed as part of the colophon or copyright-page.

Referring to an incorporated document

To refer to an incorporated document, use the following format and include the document title, author and date of publication/creation (including month and year):

Shadow Bay Statement of Significance (Gumnut City Council, February 2018)

Where the publication date is not known, the council's adoption date should be cited, eg.:

Shadow Bay Statement of Significance (Gumnut City Council, Adopted February 2018)

Do not include terms that seek to provide for alternative versions – e.g. 'as amended from time to time', 'as revised' or 'as updated'.

When referring to a document that has been amended, cite the date of the latest version of the document, and not the original date. The date is mentioned once, as shown below, irrespective of the date being part of the document title.



Red Gum River Valley Design Guidelines ~~2019~~ (Wattle Bay City Council, ~~Revised~~ March 2023)



Red Gum River Valley Design Guidelines (Wattle Bay City Council, March 2023)

If a document has already been referenced by the VPP it does not have to be referenced again at the local level.

A planning scheme amendment is required to include a document in clause 72.04 or to change an included incorporated document.

To make the incorporated document list easier to use, the schedule to clause 72.04 should be compiled alphabetically.

What sort of documents can be incorporated?

Where possible, it is better to extract the specific planning policy or decision requirements from a document and include them directly in the scheme as local planning policy, local schedule provisions or decision guidelines rather than incorporating a document. This is particularly so if only part of the document is relevant or where the document is not written in a way that suitably expresses specific requirements for planning decisions.

However, if the document includes relevant content that is lengthy and complex it may be better as an incorporated document.

Incorporated documents need to be in a suitable form to be made available online including that:

- there is no copyright infringement that would prevent publication online (such as artwork that might be copyright even though the document is not)
- there is no privacy issue
- the document is prepared from an original and not scanned (to improve quality and reduce file size)
- the document supports text recognition and is searchable
- the document is accessible for a screen reader (or an accessible Word version is also provided)

- the file size is kept as small as possible.

A document that is not publicly available should not be incorporated. Documents that are difficult or expensive for a casual user to access should also not be incorporated. In such cases, it may be possible to extract and reproduce the relevant information (as with Australian Standard AS3959 in the bushfire provisions at clause 53.02) or it may be sufficient for a document to take the form of a background document.

What are the planning authority's obligations with an incorporated document?

An incorporated document must have its strategic basis substantiated as part of a planning scheme amendment process and have been through a public consultation process, before it is incorporated in the planning scheme by way of an amendment.

Once incorporated, the document must be publicly available for inspection with the planning scheme and made available on the planning authority's web page.

Statewide incorporated documents are available on the department's website.

6.6.2 How to refer to a background document

What is a background document?

A background document provides information that helps to understand why a particular policy or control has been included in the planning scheme. Background documents were previously referred to as 'reference documents'.

A background document is not part of the planning scheme and must not be directly relied on for decision making. If a background document contains content that is necessary for decision making (such as strategies or decision guidelines) then these must be extracted and placed in the relevant policy or control.

When should a document be mentioned as a background document?

If a document gives useful information that will help a user understand the planning scheme, it may be suitable for mention as a background document. These documents are however most relevant at the planning scheme amendment stage and are generally not needed at the decision making stage. As with incorporated documents, avoid referencing background documents wherever possible to keep the scheme user-friendly and self-contained.

A background document can explain why a particular policy or provision is in the planning scheme. For example, a flora and fauna study that documents the reasons for applying an Environmental Significance Overlay may be usefully referenced as the basis for the statement of environmental significance in the overlay.

A background document must relate directly to a specific policy or provision. A document that includes a lot of information that is not directly relevant to the specific provision of the scheme will not generally be suitable for mention as a background document.

Do not make a document a background document if the substantive elements of the document have been included in the scheme and require no further explanation.

Avoid general references to a type or source of document, including under policy documents in the PPF. Instead, if needed, name the actual documents that informed the policy.

How is a document made a background document?

A background document is one that is referred to in the planning scheme but is not incorporated under clause 72.04.

To refer to a background document, use the same format prescribed for an incorporated document in Chapter 6.6.1 above.

A planning scheme amendment is required to amend a background document reference.

Where a background document has directly informed the creation of a provision, then it may be referenced directly by that provision as well as being listed in the clause 72.08 schedule.

Where a background document has informed numerous provisions, such as a regional growth plan or a housing strategy, then the document only needs to be listed in the clause 72.08 or its schedule rather than being repetitively referenced throughout a series of provisions. If a document has already been referenced by the VPP, it does not have to be referenced again at the local level in a policy or a schedule.

To make the background document list easier to use, the schedule to clause 72.08 should be compiled alphabetically.

Appendix 1 – Planning scheme style guide (A to Z)

This style guide applies to the VPP and planning schemes and is to be used in conjunction with the *Ministerial Direction - The Form and Content of Planning Schemes*. The style guide establishes standard style requirements to guide a consistent format for planning schemes.

Acronyms

Acronyms are useful to avoid repeating lengthy expressions. Do not use acronyms in a control. They may sometimes be suitable in a policy where a term is mentioned many times within a policy. If you use an acronym, always spell out the title in full at the first mention, followed by the acronym in brackets.

First mention: Gumnut Central Activity Centre (GCAC)

Subsequent mentions: GCAC

A full stop is not required between the letters of an acronym. Plurals of acronyms do not carry apostrophes:

✓ NACs

✗ NAC's

Active or passive voice

(Also refer to *Sentence construction, below*)

Active voice in statutory writing is better than passive voice because it is more direct and less ambiguous. Active voice places the object after the verb.

✓ **Active:** Discourage the rezoning of isolated areas of rural land for residential purposes.

✗ **Passive:** The rezoning of isolated areas of rural land for residential purposes will generally not be supported.

✓ **Active:** Limit the use of court or dead-end street layouts to circumstances where no other option is achievable.

✗ **Passive:** The use of court or dead-end street layouts shall be limited to circumstances where no other option is achievable.

Active voice generally encourages the use of stronger verbs that bring the activity to life. The passive voice can be ambiguous because it submerges responsibility for an action when a more open approach would be clearer and fairer to readers.

And or &

Only use the ampersand symbol (&) in references and tables.

And/or

Do not use 'and/or' in statutory writing, it is often ambiguous. In most cases using one or the other conveys the meaning. Otherwise rewrite the text so that the meaning is clear.

Apostrophes (')

Apostrophes are used to:

- indicate missing letters
- show possession

When the apostrophe comes before the 's' it indicates singular possession:

The program's objectives (the objectives of the program)

When the apostrophe comes after the 's' it indicates plural possession.

Many rural estates' common features

Brackets (parentheses)

Use parentheses not other forms of bracket. Brackets are used to introduce asides, explanations or additional information and to create emphasis. They are also used to enclose an acronym after a full name:

The government funded nearly 70 per cent (\$7 billion) of welfare expenditure.

Most of the company's employees work part-time (see Table 7).

The Department of Environment, Land, Water and Planning (DELWP).

Capitalisation

Generally, terms associated with government should be capitalised when referring to full, official names and lower case when the name is reduced to the generic element or adjective.

Victorian Government	the government
Department of Planning	the department
Gumnut Ranges Steering Committee	the committee
Minister for Planning	the Minister (the Minister is an exception to this rule)

The terms 'responsible authority' and 'planning authority' are not capitalised.

- The term 'amendment' is not capitalised (for an unnumbered mention) but is capitalised when named in full as a proper noun. For example 'Amendment C31'.
- The term 'council' is written in lower case, unless referring to the specific name. For example 'Gumnut City Council'.

Capital 'S' is used for 'state' when referring to the 'State of Victoria' or 'the State Government', but lower case in all other instances, including when it is abbreviated to its generic term or used as an adjective.

- ✓ The State Government will implement the initiative...
- ✓ ...if permit conditions can be applied across all planning schemes then they should be included in a state standard provision.

Contractions

Contractions include shortened forms of words, or two words commonly pronounced as one.

Contractions of two words such as don't (do not), shouldn't (should not) and it's (it is) should be avoided in statutory provisions as they produce a casual tone to the writing.

Commonly understood contractions that are a shortened form of words such as Rd, St or Pty Ltd may be used in planning scheme writing.

Dates

Present dates from the smallest unit to the largest in the order of day, month and year.

- ✓ 12 April 2018
- ✗ April 12 2018
- ✗ 12th April 2018

Dictionaries

The preferred dictionary for planning scheme use is The Macquarie Dictionary as the standard reference on Australian English.

e.g. and i.e.

Avoid using abbreviated Latin terms in a planning scheme. If necessary, use '*for example*' or '*such as*' instead of 'e.g.'.

Do not use 'i.e.' or alternative terms (including '*that is*' and '*in other words*') as these terms are too casual for a statutory instrument and a provision should be clear enough that it does not need further elaboration.

Fractions

Spell out fractions except when used in a table or where space is an issue:

- ✓ three-quarters
- ✗ $\frac{3}{4}$

It will usually be better to use a decimal number.

Grammar

Verbs: describe an action or a state of being:

Action	State of being
prevent, enable, assist, reduce, limit, facilitate	be, become, exist

See Appendix 2 for a list of verbs that may be used when writing for the PPF. Choosing verbs deliberately to relay a precise meaning is key to making strong and clear policy.

Take care that your verb choice provides for an achievable outcome through planning. For example, only use a term like 'ensure' when the outcome can actually be ensured using the planning system.

The starting verb to a PPF strategy also needs to be followed with meaningful content to make a policy clear. Open-ended verbs like 'improve' often need more explaining (for example, to set out what is considered an improvement).

Nouns: provide names for people, places or things as well as abstract notions.

- **Common nouns** name any generic person, place, thing or idea. They are not capitalised unless they come at the beginning of a sentence.
- **Proper nouns** are the names of specific people, places, things or ideas. Proper nouns should always be capitalised.

Common Noun	Proper Noun
• council / councils • major activity centre • metropolitan strategy • clause	• Gumnut City Council • Waratah Activity Centre • Plan Melbourne • Clause 11.01

Pronouns: stand in for a noun or noun phrase already mentioned in a text.

he, she, it, they

Adjectives: modify (describe, define or evaluate) a noun or pronoun. Avoid using emotive adjectives and ensure any unclear adjectives are substantiated. For example, by explaining what comprises an 'attractive' space where this is sought in policy.

attractive, tall, functional, safe, compact, convenient

Headings

Refer to the style sheet in the *Ministerial Direction - The Form and Content of Planning Schemes* for the correct styles to use.

Inverse statements

Consistent with avoiding repeated content in provisions, avoid restating a provision using inversed wording. The repetition does not make the provision stronger.



Gaming machines should only be located in neighbourhoods with a low concentration of gaming machines.

Gaming machines should not be located in neighbourhoods with a high concentration of gaming machines.



Discourage dwellings that are not associated with the agricultural use of the land.

Support dwellings only where they are associated with the agricultural use of the land.

Jargon

Use professional language. Do not use emotive terms, colloquialisms or popular speech in statutory writing.

Keep language simple and professional and avoid emotive, casual or popular conversational language or terms that are uncertain. For example, where a policy seeks to make a place 'colourful', 'exciting', 'vibrant', 'cosmopolitan' or 'green', or where you may seek 'statement' design. Using abstract terms makes your message ambiguous.

Avoid using colloquial terms, including planning dialect such as 'permit trigger' and 'as-of-right', so that new or infrequent system users, or less-experienced professionals are not alienated or confused by unknown terms.



'as-of-right'



'No permit required'

Latin and words from other languages

Do not use words from languages other than English:

Ultra vires, pro forma

Use a plain English term instead. If such a word must be used, use italics and ensure the meaning is clear.

Measurements

Always spell measurements in full in the body of your text. Only use abbreviations in tables and graphs:

hectare	ha
metre	m
kilogram	kg
millimetre	mm

Symbols for units of measurement do not use full stops and are never plural:

43.5 ha and 20 kg

Include a space between the number and the unit of measurement.

Use numerals for measurement when they are accompanied by a symbol. Also use numerals in mathematical contexts (such as equations and ratios) and in tables:

3 km, 9°C, \$3.50, 2+2=4

Numbers

Write numbers less than 10 in full, except for:

- exact measurement:

5 inches, 3 per cent

- a series of quantities:

2, 4, 6 then 8 groups followed

- numbers of millions or billions:

\$12 million

Numbers from 10 and above should be expressed numerically.

Never start the beginning of a sentence with a number. If this is unavoidable, spell out the number, even if it is 10 or greater.

Use commas in numbers of four digits and above.

4,000, not 4000

In spans of numbers use a dash with no space before or after. Drop the unnecessary digits in the last part unless it makes the meaning unclear:

2012–16, 23–9

Per cent

The per cent symbol '%' may be used instead of the term 'per cent', particularly in tables or graphs where space is limited. Use 'per cent' if it follows a number written as text.

It is 'per cent' (two words).

Place names

For the spelling of Australian place names refer to the Gazetteer of Australia Place Name Search – Geoscience Australia website <<http://www.ga.gov.au/place-names>>.

Place names should be capitalised:

the Yarra Valley, the Grampians

Regions should be capitalised and may contain a hyphen:

South-West Victoria, Central Victoria

Use capitals for official or abbreviated titles that remain specific but not for generic references:

The Australian Capital Territory includes Jervis Bay. The territory's total area is more than 2,000 square kilometres.

Apostrophes are not used in Australian place names:

Fishermans Bend, Wilsons Promontory, Halls Gap

Positive language

A reader is more likely to accept and remember a point if it is made in the positive.

When the action suggested is clear and the language is uncluttered it is easier to find the meaning:

- ✓ **Positive:** Support use and development for a dwelling if a reticulated water supply is available.
- ✗ **Negative:** Use and development for a dwelling will not be permitted where a reticulated water supply is not available.

Slashes (/)

Do not use slashes in statutory writing. Write 'or' instead of a slash.

Spelling

Use Australian English or British English spelling, rather than American English.

characterised		characterized
metre	✗	meter
colour		color
centre		center

Make sure that the spell-check on your computer is set to Australian English. To adjust the settings in MS Word, select the *Review* tab > *Language*, then choose *English (Australian)*.

Your spell check should not be your sole means of proofreading. Always proofread yourself. While spell checkers will pick up spelling mistakes, they may not pick up words that have been misused or left out of sentences.

Use the Macquarie Dictionary as your reference.

Tautology

Tautology refers to repetitive, unnecessary words or phrases that say the same (or similar) thing twice consecutively. Removing tautology delivers more direct and concise writing.

Examples to avoid:

- close proximity
- grow and expand
- protect and conserve
- currently undergoing
- integral part
- enhance and improve
- support and promote
- image and character
- facilities and services
- including but not limited to

There are, however, instances where 'double-barrelled' references may be needed. For example, 'protect and enhance' are terms often used together when addressing heritage. These terms each have a different effect and if both are intended, they may be mentioned together.

That and which

Use 'that' to introduce **restrictive** information. 'That' tells you a necessary piece of information about its antecedent.

'Which' is **non-restrictive**: it does not limit the phrase it refers to, but simply provides an extra piece of information about something being discussed.

As a rule of thumb, if a phrase following 'which' or 'that' can be removed without changing the meaning of a sentence, 'which' can be used. If not, the term 'that' should be used. The examples below demonstrate how the use of 'which' or 'that' may change the effect of a policy.



Discourage signs **which** obscure major view lines.



Discourage signs **that** obscure major view lines.

In the example above, the intent is to discourage only those signs having the effect of obscuring major view lines, not all signs.



Support infill residential development in the General Residential Zone **which** respects the neighbourhood character of the area.



Support infill residential development in the General Residential Zone **that** respects the neighbourhood character of the area.

In the example above, the intent is to support only infill development that respects the neighbourhood character of the area, not all infill residential development. The latter part of the sentence is intended to define the type of infill development that is acceptable; it is not intended as added context or to be read as a digression.

Time

The abbreviations 'am' and 'pm' do not have full stops. A full stop should be used to separate the hours from the minutes:

9.15 am

Drop the extra zeros for hours.

10 am not 10.00 am

Web addresses

Italicise names of websites if they are not written in full. Bold URLs that are written in full.

Underline them only if they are live links. For example: **planning.vic.gov.au**

Web addresses do not require '*http://www./*' to be included at the start.

Appendix 2 – Planning Policy Framework Verbs

The list below suggests verbs to use and those to avoid when writing strategies for the PPF. A verb is not automatically suitable because it is included in this list. Verbs must be chosen carefully to achieve the intended outcome.

Encouraging verbs

- **Allow:** to grant permission to or for
- **Assist:** to give support, help or aid
- **Enable:** to make possible or easy
- **Enhance:** to raise to a higher degree, intensify or magnify
- **Encourage:** to stimulate by assistance; approval
- **Facilitate:** to make easier or less difficult
- **Improve:** to bring into a more desirable or excellent condition
- **Promote:** to further the growth, development, progress of; encourage
- **Prioritise:** to give priority to
- **Strengthen:** to make stronger
- **Support:** to uphold by aid; advocacy or endorsement
- **Upgrade:** to assign to a higher status; to improve

Protective verbs

- **Conserve:** to keep in a safe or sound state; preserve from loss, decay, waste or injury
- **Maintain:** to keep in existence or continuance; preserve; retain; to keep in due condition, operation or force.
- **Preserve:** to keep alive or in existence; make lasting; to keep safe from harm or injury
- **Protect:** to cover or shield from injury or danger
- **Respect:** to treat with consideration; relate or have reference to
- **Retain:** to keep possession of; to continue to use, practise; to hold in place or position

Conclusive verbs

- **Avoid:** keep away from or keep clear of
- **Ensure:** to make sure or certain to occur (only use this term if the desired outcome can actually be ensured)
- **Prevent:** to keep from occurring; hinder

Discouraging verbs

- **Limit:** to confine or keep within limits; to restrict
- **Minimise:** to reduce to the smallest possible amount or degree
- **Reduce:** to bring down to a smaller extent, size, amount; to lower in degree, intensity
- **Restrict:** to confine or keep within limits as of space, action, choice or quantity
- **Discourage:** to express disapproval of; to dissuade from; to obstruct by opposition

Neutral verbs (could encourage or discourage depending on context)

- **Accommodate:** to find or provide space for (something); to make suitable or consistent
- **Allocate:** to set apart for a particular purpose; assign or allot
- **Concentrate:** to bring or draw to a common centre or point of union; cause to come close together
- **Connect:** to join or unite; link
- **Consolidate:** to unite or combine; to strengthen
- **Coordinate:** to place or arrange in due order or proper relative position; to combine in harmonious relation or action
- **Create:** to bring into being; cause to exist; produce.
- **Define:** to determine or fix the boundaries or extent of; to make clear the outline or form of; to explain the nature or essential qualities of
- **Deliver:** to give forth or produce
- **Demonstrate:** to make evident by arguments or reasoning; prove
- **Design:** a plan to be executed or constructed; a plan; a project; a scheme
- **Develop:** to bring to a more advanced or effective state; to cause to grow or expand
- **Direct:** to regulate the course of; conduct; manage; control; to point or aim towards a place or an object
- **Establish:** to set up or bring about; to settle or install in a position
- **Focus:** (to make) a central point of attraction, attention or activity; to concentrate
- **Implement:** to put (a plan, proposal etc.) into effect
- **Increase:** to make greater in any respect; augment; add to
- **Locate:** to set, fix or establish in a place, situation or locality
- **Manage:** to take charge or care of; to handle, direct, govern or control in action or use
- **Offset:** to balance by something else as an equivalent; to compensate for
- **Plan:** a scheme of action or procedure; a design or scheme or arrangement
- **Provide:** to furnish or supply
- **Reinforce:** to strengthen; make more forcible or effective
- **Reserve:** to keep back or save for future use, disposal, treatment; to retain or secure by express stipulation
- **Restore:** to bring back to a former, original or normal condition
- **Specify:** to mention or name specifically or definitively; to give a specific character to
- **Transition:** to move from one state, position or stage to another
- **Undertake:** to warrant or guarantee; to take in charge

Verbs to avoid

(provide little/no direction)

- **Consider:** to think carefully; to view attentively or scrutinise
- **Recognise:** to perceive as existing or true; to acknowledge formally as existing
- **Acknowledge:** to admit to be real or true; to indicate appreciation or gratitude for; to certify the receipt of

(controls cannot be included in policy)

- **Require:** to place under an obligation or necessity

Appendix 3 – Example Municipal Planning Strategy

02 Municipal Planning Strategy

02.01 Context

Gumnut Shire is about 250 kilometres north-west of metropolitan Melbourne. It has an urban core, surrounding rural townships and a large agricultural base across approximately 170 square kilometres. The Gumnut City Town Centre is a major activity centre on the state's northern transport corridor.

There are shared boundaries, connections and relationships with Leadbeater Shire to the north and Honeyeater Shire to the south.

The population of about 70,000 in 2016 is forecast to grow to about 100,000 by 2040, making Gumnut Shire one of Victoria's fastest growing regional municipalities.

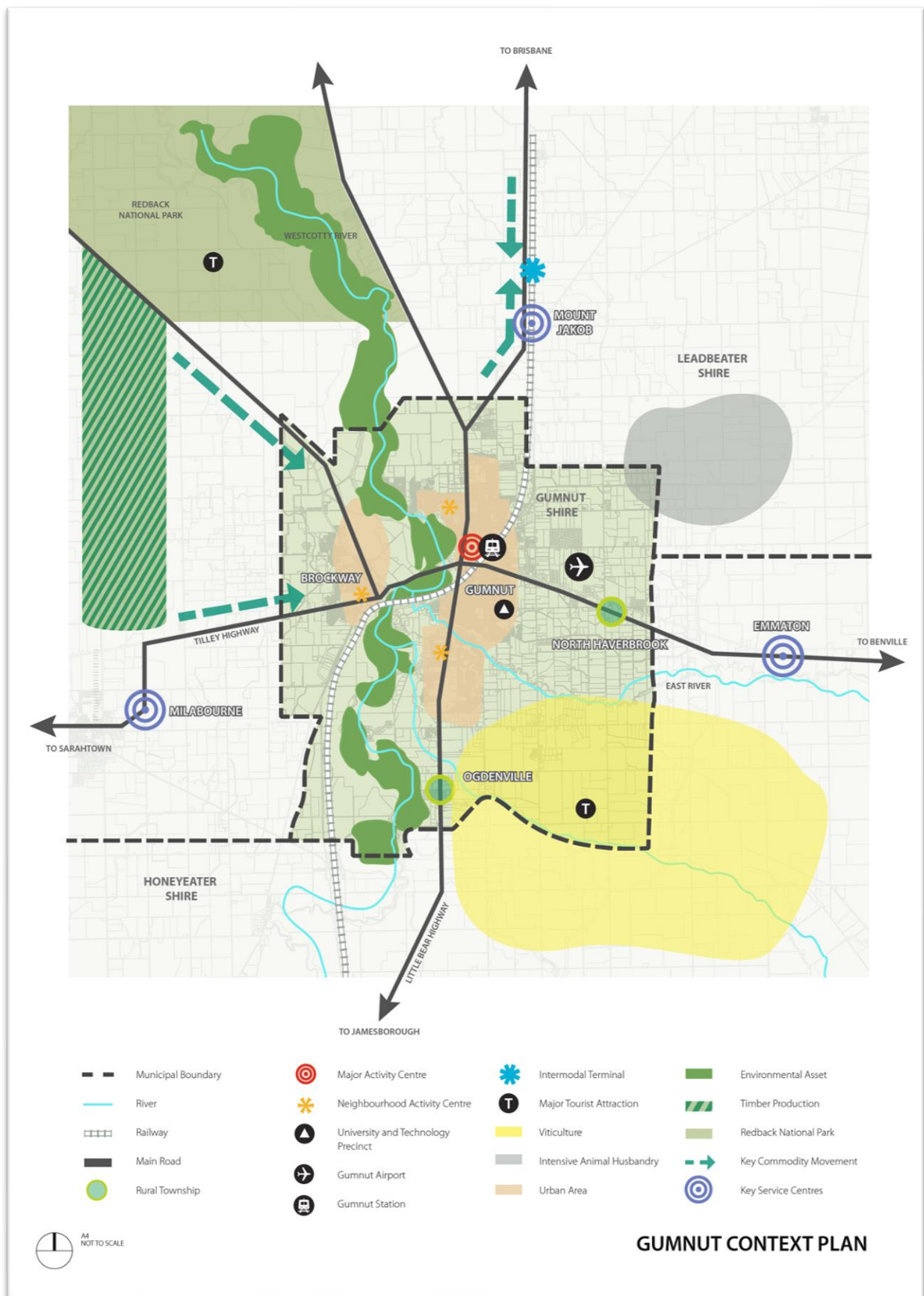
Gumnut Shire's catchment extends beyond its borders and includes major retail, health and education facilities. People are attracted to Gumnut for its character and lifestyle as well as its employment and education opportunities.

Gumnut's most important natural feature is the Westcotty River, a major tributary of the Murray River. The river environs include substantial areas of high-value biodiversity. The river and its surrounds make up a substantial portion of the western part of the Shire.

Gumnut Shire has a number of highly significant heritage buildings, structures, features, precincts, archaeological sites, cultural landscapes, trees, avenues and natural features. Gumnut's natural heritage was formed over 500 million years ago, while its rich cultural heritage began over 40,000 years ago. Much of the remaining pre-contact heritage is concentrated in the area surrounding the Westcotty River.

The agricultural areas of Gumnut Shire are some of Victoria's richest. Local farming activities deliver some of the highest value production per hectare in the state. Agriculture is also important to the shire's rural character and identity and is a key driver for tourism in the shire. The popularity of the 'farm to table' movement has drawn people to Gumnut Shire because of its strong food and wine-based tourism industry. Service industries, including professional services, education, health, retail, cultural and government are all represented in Gumnut and have been growing strongly over the past decade.

Context Plan



02.02 Vision

Gumnut Shire's Vision, derived from the Gumnut Shire Council Plan 2017, is to create a place that:

- Fosters economic prosperity by supporting our local businesses and industries and creates an environment in which they can thrive by:
 - Supporting agricultural, knowledge industry, tourism, service and industrial uses in the Shire.
 - Supporting and protecting the road, air and rail links to the region and the state.
- Is vibrant and sustainable, that we love to live and work in and has excellent connections, facilities and services by:
 - Protecting the existing rural character while also providing an attractive and liveable built environment in those parts of the Shire where development will intensify.
 - Creating an ecologically sustainable Shire.
 - Providing housing to accommodate the expected population growth.
 - Achieving a diversity of housing choices, housing affordability and a good standard of building design and amenity.
- Promotes our valued natural and built assets by:
 - Managing development so that it is responsive to the existing natural and built environment.
 - Safeguarding our valued environmental assets to ensure the health of ecological systems and the biodiversity they support.
 - Protecting, conserving and enhancing the Shire's heritage resources.

02.03 Strategic directions

Settlement

Growth in Gumnut Shire is to be accommodated by consolidating existing urban form, expanding identified towns and providing greenfield development opportunities.

The Gumnut City Northern Growth Area is the primary greenfield development area. Urban consolidation is encouraged in and around Gumnut City's three neighbourhood activity centres.

The townships of Brockway, Ogdenville and North Haverbrook and their surrounding communities provide an attractive lifestyle choice in a rural setting. They represent a different style of living to the more urban form of Gumnut City.

The *Gumnut Townships Development Plan 2010* sets out the preferred form for future development in Brockway, Ogdenville and North Haverbrook. While Ogdenville and North Haverbrook are identified for growth, residential development in Brockway will be limited to areas that are already zoned for residential use, recognising the constraints of native vegetation, landscape and heritage character.

Most of the population increase in Gumnut to 2040 is to be accommodated by directing growth to:

- Gumnut City Northern Growth area.
- Urban consolidation areas (including the Wombat Flats, Gumnut Central and Gumnut City North neighbourhood centres).
- The townships of Ogdenville and North Haverbrook.

Activity centres

There is a strong network of activity centres providing shopping, employment, entertainment, social and community focal points throughout the Shire.

The Gumnut Shire activity centre hierarchy establishes the order (with respect to scale and function) of one centre compared to another. The spatial distribution and hierarchy of activity centres across Gumnut is shown on the Strategic Framework Plan.

The role and function of activity centres will be supported by:

- Reinforcing the primacy of the Gumnut City Town Centre as a key entertainment destination, service, industry and employment area and inner city living precinct.
- Encouraging uses that provide localised employment and service needs in the Wombat Flats, Gumnut Central and Gumnut City North Neighbourhood Centres.

Natural Environment

Much of the native vegetation that existed in the Shire before settlement has been removed or substantially modified. As a result remnant vegetation, particularly along the Westcotty River, serves an important role in preserving biodiversity, providing habitat and environmental benefits such as water quality control, ground water management and soil stabilisation. The urban break between Ogdenville and Gumnut City is significant in providing the one substantial east-west biodiversity corridor through the municipality.

The Shire seeks to protect biodiversity by:

- Retaining remnant vegetation throughout the municipality but particularly along the Westcotty River.
- Maintaining the urban break between Ogdenville and Gumnut City.

Amenity

Gumnut City's residential areas are highly desirable due to their access to retail, entertainment, employment, community and recreational facilities. Many of these areas are also aesthetically significant with intact streetscapes. The Shire seeks to maintain residential amenity by:

- Directing non-residential uses to locate in either the Gumnut City town centre or the Wombat Flats, Gumnut Central and Gumnut City North neighbourhood centres.
- Supporting limited non-residential uses in residential areas, provided they serve a direct local need and minimise impacts on the amenity of an area.
- Directing industrial uses, particularly those with adverse amenity impact potential, to the Wombat Flats industrial precinct.

Agriculture

Agriculture is an important economic asset for the Shire and needs to be protected from encroaching, non-compatible uses. In particular, the subdivision or use of land in farming areas for dwellings is discouraged as this has the potential to remove productive agricultural land from supply and create land use conflicts with nearby farming properties.

Agriculture in the Shire will be protected by:

- Supporting the subdivision of land for or construction of a dwelling in the Farming Zone only where it can be demonstrated that the dwelling is reasonably required to support agricultural activity.

Built environment and heritage

Gumnut Shire contains many diverse urban and environmental features identified for preservation and enhancement in order to retain the character of the municipality.

Brockway township was one of the first post-contact settlements in the region and has an extensive and highly intact built heritage.

Vegetation throughout the Shire also provides scenic qualities and contributes to amenity and character.

Gumnut's activity centres are a key element in promoting activity and social interaction with built form providing the physical basis for this.

Owing to its high-profile location at the southern entry point to Gumnut City, the Wombat Flats industrial precinct forms the primary gateway location for the urban areas of Gumnut.

The Shire will protect its distinctive built and natural environment by:

- Designing built form in activity centres to encourage interaction with the public realm and prioritise pedestrian amenity.
- Protecting, conserving and enhancing its heritage assets.
- Designing infill housing development in existing residential areas to respect existing neighbourhood character.
- Encouraging the retention of existing canopy trees.
- Supporting innovative and contemporary designs for housing in urban consolidation and green-field development areas that complement the important natural, cultural and historic built form and landscape values of the Shire.
- Encouraging development in the Wombat Flats industrial precinct to achieve a high standard of urban design in order to:
 - Create a gateway entry.
 - Create a strong sense of place.
 - Complement the abutting Wombat Flats neighbourhood centre.
 - Provide a quality environment for workers and visitors.

Sustainability

Building design and the pattern of land use and development can contribute substantially to the overall sustainability of the Shire. Lowering the ecological footprint of new housing (and other development) is necessary to accommodate new residents and businesses while minimising impacts on the environment.

Sustainability in the Shire will be supported by:

- Encouraging subdivisions and development in greenfield areas to create a compact form and include facilities that promote sustainable modes of transport.
- Encouraging development throughout the Shire to incorporate environmentally sustainable design principles to reduce its ecological footprint.

Housing

Housing demand is high in Gumnut Shire due to the increasing number of new residents. The supply of housing being developed in Gumnut Shire is not matching the needs of a diverse population, particularly in relation to smaller households, the elderly and disabled persons.

The Shire seeks to accommodate housing demand by:

- Directing more compact dwellings, including apartments and townhouses, to locate in the Gumnut North, Gumnut Central and Wombat Flats neighbourhood centres where urban consolidation is encouraged.
- Supporting the provision of lower cost accommodation, social housing and housing for people of all abilities around the Gumnut City town centre and the three neighbourhood centres.

Economic development

Gumnut Shire has a diverse local economy that is distributed across the primary, secondary and tertiary economic sectors. While agriculture remains a mainstay of the local economy, the Gumnut Airport and Brown Snake University (with its research and technology precinct) are significant economic contributors to both the Shire and the surrounding region. The Shire also has a role in transporting and processing timber from plantations in neighbouring municipalities.

The Wombat Flats industrial precinct is the main manufacturing centre for the Shire. The precinct has a focus on food manufacturing that responds to the high quality and availability of local produce. Businesses in the precinct are a major source of employment for the Shire.

Economic growth in the Shire will be supported by:

- Protecting the Brown Snake University and Technology Precinct from encroaching residential uses, other than where such uses will support the function of the precinct.
- Discouraging uses in or directly adjacent to the Wombat Flats Industrial precinct that are incompatible or would inhibit its function.
- Encouraging tourism uses that support and enhance local agriculture, particularly where they support the viability of smaller farms.

Transport

Gumnut Airport is a valuable asset for the Shire and the region. The airport links the Shire to Melbourne, other state capitals and regional centres. The railway line and Tilley Highway provide important transport links for moving both people and freight. Gumnut Railway Station is a key intermodal terminal for the region.

The planned highway bypass will improve the amenity of Gumnut City by removing through traffic. The bypass will also increase the viability of transport links in the area by reducing the time taken to travel through Gumnut City.

As important assets for the Shire and the surrounding region, the Gumnut Airport & Tilley Highway bypass will be protected by:

- Maintaining and growing the recreational, emergency and charter use of the airport.
- Preventing the encroachment of land uses and forms of development that could restrict the future use of the airport or the function of the highway.

02.04 Strategic framework plan



GUMNUT STRATEGIC FRAMEWORK PLAN

Appendix 4 - Place-based policy checklist

Checklist for including policy in clause 11.03 (Planning for Places)

Given the breadth of policies addressed in the PPF, most policy can be nested thematically within the PPF – including policies for specific places. To qualify for inclusion in clause 11.03, a policy must tick all of the following boxes:

1. Does the proposed policy apply to a specific place? For example 'Gumnut irrigation district', not 'Townships in the City of Gumnut' which are a type of place, rather than a place.	☐
2. Is there a common objective or common set of objectives for the place?	☐
3. Does the proposed policy provide guidance specific to the place? Generic content applied loosely to multiple places or precincts in one or more policies should be consolidated and positioned elsewhere in the PPF.	☐
4. Does the proposed policy include content relating to multiple, interrelated issues? Where there are interdependencies between multiple strategies a place-based policy may provide a more coherent strategic narrative.	☐
5. Does the proposed policy result in a clearer and simpler representation of the policy than if it were thematically distributed across the PPF?	☐
6. Do the proposed strategies provide detailed policy directions for the particular place? High level strategic directions belong in the Municipal Planning Strategy.	☐
7. Does the proposed policy exclusively comprise content for the place that is not already contained in a control? Policy should not duplicate content in a control that applies to the place, such as a Design and Development Overlay.	☐

See Chapter 6.4.4 for more information about applying a place-based policy.

Appendix 5 - Local policy location list

The following table provides an overview of the content of state (or regional) policy and indicates where particular local policies should be placed under the various Planning Policy Framework clauses.

This table is intended as a guide only. Correct placement of policy is dependent on a detailed understanding of state and regional policies and local policy content.

Where a state policy relates to a single, well-defined topic (for example planning for ports), no further instruction has been provided as it is considered self-explanatory.

Clause	PPF Heading	Policy Content
11	SETTLEMENT	
11.01	Victoria	
11.01-1	Settlement	- Settlement within Metropolitan Melbourne and the eight regional growth plan areas - Settlement planning for cities and townships - Metropolitan Melbourne green wedges
11.02	Managing growth	
11.02-1	Supply of urban land	The provision of land (residential, commercial, industrial etc.) and infrastructure to support development and meet forecast demand
11.02-2	Structure planning	Precinct Structure Plans for growth areas
11.02-3	Sequencing of development	Managing development in growth areas so services are available early for new communities
11.03	Planning for places	
11.03-1	Activity centres	- Networks of activity centres - Development of activity centres (such as those based on strategic framework plans)
11.03-2	Growth areas	- Location of urban growth - Growth Area Framework Plans
11.03-3	Peri-urban areas	- Management of growth in peri-urban areas - Protecting valued qualities including environmental, cultural or economic

Clause	PPF Heading	Policy Content
11.03-4	Coastal settlement	Planning for sustainable coastal development through: • settlement boundaries to avoid linear sprawl and protect non-urban breaks • protecting environmental values
11.03-5	Distinctive areas and landscapes	• Identified and declared distinctive areas. Includes areas with Localised Planning Statements (such as for the Bellarine Peninsula or Yarra Ranges) • Managing impacts along the Great Ocean Road
11.03-6	Regional and local places	Place-based policies that relate to a place that is not covered by clauses 11.01, 11.02 or 11.03-1 to 11.03-5 – such as a township, an urban renewal precinct or a strategic redevelopment area This clause can only be used for policies that meet all of the criteria outlined in the checklist at Appendix 4 of this guide
12	ENVIRONMENTAL AND LAND-SCAPE VALUES	
12.01	Biodiversity	
12.01-1	Protection of biodiversity	• Identifying and protecting areas of biodiversity including important areas of biodiversity • Providing links between areas of biodiversity • Planting and tree cover to increase habitat
12.01-2	Native vegetation management	Removal of native vegetation resulting in <i>no net loss</i> to biodiversity. For more general vegetation management see 12.01-1 Protection of biodiversity
12.02	Marine and coastal environment	
12.02-1	Protection of the marine and coastal environment	• Protecting natural and environmental values of coastal areas • Managing marine development and infrastructure • Protecting cultural heritage • Coastal acid and sulfate soils
12.02-2	Marine and coastal Crown land	

Clause	PPF Heading	Policy Content
12.03	Water bodies and wetlands	
12.03-1	River and riparian corridors, waterways, lakes, wetlands and billabongs	• Water bodies of all kinds except marine and bay environments • Dams – where the principal concern is interfering with the flow of a waterway • The Yarra River
12.04	Alpine areas	
12.04-1	Sustainable development in alpine areas	
12.05	Significant environments and landscapes	
12.05-1	Environmentally sensitive areas	Protection of environmentally sensitive areas with significant recreational value
12.05-2	Landscapes	Significant landscapes and open spaces that are not distinctive landscapes identified at clause 11.03-5
13	ENVIRONMENTAL RISKS AND AMENITY	
13.01	Climate change impacts	
13.01-1	Natural hazards and climate change	• Climate change – General matters • Natural hazards – General considerations not otherwise addressed in clauses 13.02, 13.03 and 13.04
13.01-2	Coastal inundation and erosion	• Coastal impacts of climate change • River and coastal development susceptible to inundation and erosion
13.02	Bushfire	
13.02-1	Bushfire planning	Bushfire planning for land affected by the Bushfire Management Overlay or included in a Bushfire Prone Area
13.03	Floodplains	
13.03-1	Floodplain management	• Managing floodplains • Mitigation of negative impacts of flooding including the protection of life and property • Dams – where the principal concern is reducing flooding impacts
13.04	Soil degradation	
13.04-1	Contaminated and potentially contaminated land	

Clause	PPF Heading	Policy Content
13.04-2	Erosion and landslip	- Land degradation processes – management of use and development in areas prone to landslip, erosion etc. - Dams – as relevant to erosion or landslip
13.04-3	Salinity	
13.05	Noise	
13.05-1	Noise management	Using building design, urban design and land separation techniques to manage noise effects on sensitive land uses
13.06	Air quality	
13.06-1	Air quality management	- Integration of land use and transport to improve air quality through reduced emissions - Separating uses that generate emissions and more sensitive uses
13.07	Amenity, human health and safety	
13.07-1	Land use compatibility	- Amenity, human health and safety impact management - Off-site impacts from commercial, industrial and other uses - Conflicts between uses within a zone (e.g. non-residential uses in residential zones or caretaker's residences in industrial areas) - Interface impacts between different zones (e.g. dwellings that abut an industrial zone) - Sexually explicit entertainment venues – managing the amenity impacts they generate
13.07-2	Major hazard facilities	- Minimising the potential risk to humans and property from major hazard facilities - Providing for the ongoing viability of major hazard facilities
13.07-3	Live Music	

Clause	PPF Heading	Policy Content
14	NATURAL RESOURCE MANAGEMENT	
14.01	Agriculture	
14.01-1	Protection of agricultural land	• Protection of productive agricultural land • Criteria for the assessment of non-agricultural uses in farming zones • Housing in agricultural zones: excisions, development, subdivisions (excludes rural residential development)
14.01-2	Sustainable agricultural land use	• Animal husbandry and other animal industries including animal keeping, training, breeding • Horticulture • Sustainable management of ongoing agricultural land use
14.01-3	Forestry and timber production	
14.02	Water	
14.02-1	Catchment planning and management	• Protecting and restoring the natural function of catchments • Managing impacts on downstream water quality including from development
14.02-2	Water quality	• Protecting surface and ground water quality • Managing land use and development to protect impacts on downstream water quality or flow
14.02-3	Protection of declared irrigation districts	
14.03	Earth and energy resources	
14.03-1	Resource exploration and extraction	
15	BUILT ENVIRONMENT AND HERITAGE	
15.01	Built environment	
15.01-1	Urban design	• Urban design • Signs – placement, appearance and treatment of different types of signs (except signs along a transport route that forms part of the transport system such as Eastlink or the Metropolitan Ring Road, which belong under clause 18.02-3 (Road system))

Clause	PPF Heading	Policy Content
15.01-2	Building design	Building design including: residential, commercial and industrial
15.01-3	Subdivision design	• Neighbourhood design • Subdivision design – particularly those covered by clause 56
15.01-4	Healthy neighbourhoods	Designing a physical environment that supports: • community interaction • physical activity
15.01-5	Neighbourhood character	
15.01-6	Design for rural areas	Design in rural areas including: • approaches to townships • along tourist routes • ridgelines and hilltops This policy relates to design for more general rural areas. For significant landscapes or other sensitive natural areas see clause 11.03-5 (Distinctive areas and landscapes) or clause 12.05 (Significant environments and landscapes)
15.02	No content	
15.03	Heritage	
15.03-1	Heritage conservation	• Managing development of heritage places • Excludes statements of significance or detailed, place-specific design guidelines. These are to be incorporated into the schedule to the Heritage Overlay (see <i>PPN01 - Applying the Heritage Overlay</i> for more information)
15.03-2	Aboriginal cultural heritage	

Clause	PPF Heading	Policy Content
16	HOUSING	
16.01	Residential development	
16.01-1	Housing supply	• Facilitating well-located, integrated and diverse housing that meets community needs • Increasing diversity in the types and configuration of housing to meet changing household needs • Increasing housing in established urban areas and reducing new dwellings in greenfield, fringe and dispersed development areas • Directing higher density residential development to areas well serviced by public transport, employment, commercial and community facilities • Housing supply – excludes: ○ Amenity, human health and safety impacts and interface issues – see clause 13.07-1 (Land use compatibility) ○ Housing affordability – see clause 16.01-2
16.01-2	Housing affordability	Supporting housing affordability through: • increasing housing choice • using design to minimise environmental impacts and reduce costs • facilitating the provision of affordable housing for very low to moderate income households
16.01-3	Rural residential development	Housing in areas where rural residential development is expected or preferred – excludes dwellings and dwelling lot excisions in the Farming Zone – see clause 14.01-1 (Protection of agricultural land)
16.01-4	Community care accommodation	Facilitating the confidential establishment of community care facilities
16.01-5	Residential aged care facilities	Facilitating the development of residential aged care facilities that: • are integrated with services and the community • cater to a range of needs • are designed to respond to site and context

Clause	PPF Heading	Policy Content
17	ECONOMIC DEVELOPMENT	
17.01	Employment	
17.01-1	Diversified economy	- Facilitating growth in emerging employment sectors - Protecting existing employment areas and planning for new ones - Growing and diversifying rural economies
17.01-2	Innovation and research	- Facilitating growth in the knowledge economy - Supporting the development of business clusters - Innovation and research precinct development (e.g. the Latrobe employment cluster)
17.02	Commercial	
17.02-1	Business	Meeting the community's need for retail, entertainment, office and other commercial services
17.02-2	Out-of-centre development	Managing out-of-centre development to not undermine existing centres and provide a net community benefit
17.03	Industry	
17.03-1	Industrial land supply	Allocating sufficient land for all industrial needs
17.03-2	Sustainable industry	Protecting the viability of industries through buffer distances, their location and other measures
17.03-3	State significant industrial land	Protecting industrial land of state significance to allow for future growth
17.04	Tourism	
17.04-1	Facilitating tourism	Excludes what is captured under clause 17.04-2 (Coastal and maritime tourism and recreation)
17.04-2	Coastal and maritime tourism and recreation	
18	TRANSPORT	
18.01	Land use and transport	
18.01-1	Land use and transport integration	Integrating land use and transport to develop a transport system that facilitates access to social, cultural, and economic activities

Clause	PPF Heading	Policy Content
18.01-2	Transport system	• Location and design of new transport routes for all modes • Locating and designing movement networks to balance the needs of different users of the transport system
18.01-3	Sustainable and safe transport	Designing a safe transport system that promotes health and wellbeing and is sustainable
18.02	Movement networks	
18.02-1	Walking	• Encouraging efficient and safe walking networks that link with the transport system • Improving walking infrastructure
18.02-2	Cycling	• Encouraging efficient and safe bicycle networks that link with the transport system • Protecting and improving Strategic Cycling Corridors • Improving cycling infrastructure
18.02-3	Public Transport	• Integrating major transport projects with public transport infrastructure • Protecting and developing the Principal Public Transport Network and Regional Rail • Integrating land use and development with public transport infrastructure
18.02-4	Roads	• Design of road networks and declared roads and freeways • Design for safe movement of people and goods • Protecting and development of the Principal Road Network • Allocating land for car parking based on demand taking into account all modes of transport • Efficient provision and use of car parking facilities • Design and location of car parking facilities
18.02-5	Freight	• Protecting and developing the Principal Freight Network • Improving freight and logistics system and precincts
18.02-6	Ports	

Clause	PPF Heading	Policy Content
18.02-7	Airports and airfields	
19	INFRASTRUCTURE	
19.01	Energy	
19.01-1	Energy supply	• Facilitating development of energy supply infrastructure including at a local level to help diversify local economies • Supporting the transition to a low-carbon economy
19.01-2	Renewable energy	Renewable energy facilities on a commercial scale
19.01-3	Pipeline infrastructure	Pipeline infrastructure provision and protection
19.02	Community infrastructure	
19.02-1	Health facilities	Includes, hospitals, medical centres, health and health-related facilities and the like
19.02-2	Education facilities	Includes childcare, early learning centres, kindergartens and the like
19.02-3	Cultural facilities	Increasing access to arts, recreation and other cultural facilities
19.02-4	Social and cultural infrastructure	Providing a fairer distribution of and access to social and cultural infrastructure, including community facilities
19.02-5	Emergency services	Emergency service infrastructure location
19.02-6	Open space	Public open space areas – distribution and/or management
19.03	Development infrastructure	
19.03-1	Development and infrastructure contributions plans	• Development Contribution Plans • Infrastructure Contribution Plans
19.03-2	Infrastructure design and provision	• Subdivision – providing an integrated approach to the planning and engineering design of new subdivisions • Engineering design for subdivisions -<i>Infrastructure Design Manual</i>

Clause	PPF Heading	Policy Content
19.03-3	Integrated water management	• Water supply, treatment and re-use including alternative water sources such as rainwater collection • Sewerage • Drainage • Dams – where the principal concern is more general water supply • Stormwater – quality, management and treatment • Water sensitive urban design (WSUD)
19.03-4	Telecommunications	• Telecommunication facilities and infrastructure
19.03-5	Waste and resource recovery	• Waste and resource recovery – infrastructure provision • Waste reduction • Waste facilities – appropriate provision – including domestic, commercial and industrial

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