

Planning common questions

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| **Implementation notes:** The FAQs are a suggested guide of enquiries which are commonly triaged to Statutory Planning. The intent of the FAQs is a ‘one stop’ information source on the website for common enquiries related to works or use.  It is noted that some of the FAQs and responses refer to application types which may not require a Planning Permit but would require a Building or Local Law permit. Refer to implementation notes throughout and revise to suit Council’s preferred response or local law. |

The purpose of the planning permit FAQs is to make information about the most frequent questions asked about planning permits available to applicants. Each FAQ will be made available to relevant applicants via the self-assessment tool, or directly by the Planning Team.

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General Planning Permit Questions

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| **FAQ** | **Response** |
| What is a planning permit? | A Planning Permit is a legal document that gives you permission to use or develop land in a certain way. It usually includes conditions and approved plans which must be complied with. |
| Generally a permit is required for: | * changing the use of your property (e.g. shop to a medical centre or warehouse to a gym) * constructing a dwelling on a lot less than 500m2 * outbuildings and sheds in rural areas * commercial or industrial development * applying for a liquor licence * constructing or displaying signage * waiver or reduction of car parking (associated with changing the use of the land or increasing the floor area of the building) * construction of another dwelling on a property * subdivision of land * creation, variation or removal of easement or restriction. |
| What is the difference between planning and building? | **Planning** Planning considers the way land is used and developed, and how this impacts the character and amenity (liveability) of an area.  A Planning Permit is a legal document that gives you permission to use or develop land in a certain way. It usually includes conditions and approved plans which must be complied.  **Building** Building is concerned with safe construction practices and considers whether the construction work and new uses conform to building regulations, the Building Code of Australia, and relevant Australian standards.  A Building Permit is a legal document, issued before construction commences, to ensure the building meets the minimum requirements for the health, safety and amenity of occupants and the public. Building Permits are issued by a Private Building Surveyor. A Building Permit is required for most building works, for the change of use of a building (e.g. dwelling to a boarding house, shop to an office etc.), for new buildings and structures, (e.g. fence, pergola) and dwelling alterations.  If you require both permits, you must get the planning permit before applying for the building permit – having an approved planning permit does not mean that you can start construction without first getting a building permit. |
| Certificate of Title (to submit with planning application) | **What is a Certificate of Title?**  A Certificate of Title is an official record of who owns a piece of land and any encumbrances on the land. It can also include information about mortgages, covenants, caveats and easements  **Where do I get a copy of my title?**  You can request a copy of your current Certificate of Title from [www.landata.vic.gov.au](http://www.landata.vic.gov.au).  You will need one of the following references for the land:   * Full street address * Lot plan number * Volume and folio number * Council property number (this will be your billing number on your latest Rates notice) * Crown allotment details   Once the property address is confirmed, select the required certificates. The following information is required by council:   * Registered search statement (Title) * Copy of plan (Plan of subdivision) * ‘Instruments’ – caveat, covenant, Section 173, easement (if applicable)   **Why is a copy of title required with my planning application?**  A copy of title is required with your application to confirm ownership details, location and dimensions of the land and any restrictions which may affect what can be developed on the land.  The copy of title must be no more than 60 days old. This ensures council have an up-to-date copy, inclusive of any recent changes. |
| What are planning zones and overlays? | The planning scheme zones are applied to ensure land is assigned for particular uses, for example, residential, industrial, commercial or other purposes. The zone description in the planning scheme also contains information relating to land uses, subdivision of land, construction of new buildings and other changes to the land.    The planning scheme map may show that a piece of land has an overlay as well as a zone affecting it. An overlay applies another layer of planning controls to a parcel of land.    Not all land has an overlay and some land may be affected by more than one overlay. If an overlay applies, the land will have some special feature of interest, such as a bushfire risk, heritage building, significant vegetation or flood risk. The overlay information will indicate if a planning permit is required for the construction of a building or for other changes to the land. You can check the zones and overlays that apply to your property at [VicPlan](https://mapshare.vic.gov.au/vicplan/?RunWorkflow). |
| Can I rezone my land? | If you wish to change the zone to your land, you need to request a rezoning from council.  Rezoning must follow a particular process and must be approved by the Minister for Planning.  Rezoning is treated as an amendment to the Frankston Planning Scheme.   The first step in contemplating a rezoning of your property is to talk to the Strategic Planning team. Zones apply to land are based on assessments that include consideration of the surrounding land use, patterns of developments and environmental characteristics.   If you wish to rezone your land, you will be required to justify why an Amendment to the Planning Scheme should be changed.   Please contact the Strategic Planning Department on [phone number] to discuss the land rezoning. |

Pre-Application Questions

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| **FAQ** | **Response** |
| What is the purpose of a pre-application? | The pre-application process is a two-way conversation between you (the permit applicant) and council’s planning officers. This discussion is intended to provide you with a better understanding of council policy and the officer’s views. This process also provides our officers with a better understanding of your proposal. After the pre-application process, you should be clear on what council expects and the planning assessment steps. We look forward to meeting with you to discuss your proposal. |
| What is the benefit of a pre-application? | From the pre-application process, you will receive:   * A clearer understanding of relevant planning policies and guidelines * Clarification on the planning assessment process * Merits-based advice to help refine your proposal prior to applying for a planning permit * A point of contact within the Statutory Planning team   If you have no or limited experience with the Victorian planning system, please get in touch with the Statutory Planning team – planning can be complicated but we are here to help. |
| How to prepare for a pre-application? | To help us give you the best advice, we encourage you to:   * Familiarise yourself with the planning controls that apply to your property * Have a conversation with your neighbours – they will probably receive notice of the assessment, so it can help to gauge their thoughts. They might provide feedback on their own plans, trees they would like protected, or other things you hadn’t considered |

Extending or altering your home

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| **FAQ** | **Response** |
| What is considered an extension or alteration? | An extension is an addition or increase in the floor area of an existing dwelling, for example adding an additional storey or ground floor room.  An alteration can involve internal or external changes to an existing dwelling without an increase in the floor area, for example changing the materials of any walls. Internal rearrangements which do not increase the overall floor area, building size or number of dwellings generally do not need a planning permit.  Domestic services (such as access ramps, sky lights, shade sales, air conditioning, security systems, downpipes etc) also generally do not need a planning permit unless the land is affected by a Heritage Overlay. |
| Do I need a Planning Permit for an extension or alteration? | Confirm the zoning of your land by using the [VicPlan](https://mapshare.vic.gov.au/vicplan/) website and typing in your address. You will require a planning permit if your land is in the:   * General Residential Zone (and less than 300sqm in area). * Residential Growth Zone (and less than 300 sqm in area). * Low Density Residential Zone (and there is more than one dwelling on the land). * Mixed Use Zone (and less than 300sqm in area). * Township Zone (and less than 300sqm in area).   You will require a planning permit if your land is in the:   * Rural Living Zone. * Rural Conservation Zone. * Rural Activity Zone. * Farming Zone. * Affected by any overlays. * Has an existing planning permit.   Please contact the Statutory Planning Department on [phone number] if you require additional guidance due to the complexities of the planning controls and exemptions which may be applicable. |
| What applications fees apply to this type of permit? | The cost of the application depends on the details of your application. Refer to the council Fee Schedule to see current fees. |
| What are building setback requirements and regulations which might affect my application? | Your architect, draftsperson or building surveyor will be able to advise you of any setback requirements or regulations as part of the process of designing your extension or alteration. council’s Statutory Planning team cannot design a proposal for you and has the role of assessing what is submitted against the requirements. |
| Does my application qualify for VicSmart? | To learn whether your project can be considered for [VicSmart](https://www.planning.vic.gov.au/planning-permit-applications/vicsmart), please engage with your draftsperson or architect who will be submitting the proposal. They will be familiar with similar VicSmart applications. Alternatively, please contact our Planning Department on [phone number]. |

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| **Implementation notes:** Review and revise to suit Council’s preferred response or local law. |

Building a shed

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| **FAQ** | **Response** |
| Do I need planning approval to build a shed? | A planning permit is not required for a shed (out-building) associated with a dwelling on a lot in the General Residential Zone, Township Zone or Mixed-Use Zone, unless:   * The lot has an area of less than 300m2 and the shed is greater than 10m2; or * The land is affected by an overlay that may trigger a planning permit for certain buildings and works.   Check the zones and overlays that apply to your property at [VicPlan](https://mapshare.vic.gov.au/vicplan/?RunWorkflow). |
| Can I build a shed before my dwelling? | No.  If a shed is proposed on a lot without an existing dwelling or dwelling construction already underway, this is then considered to be a store, and is prohibited in most residential zones.  If you would like to build your shed at the same time as your dwelling, it should be included in your building permit, or constructed once dwelling construction is underway. |
| Do I need building approval to build a shed? | **Shed greater than 10m2**  A building permit is required for sheds greater than 10m² in floor area.  You will need to engage a private building surveyor to obtain a building permit for your shed. council’s Building Department does not offer building permit services. For more information on appointing a building surveyor, you can contact the Victorian Building Authority.  **Shed less than 10m2**  For sheds not more than 10 m² in floor area, a building permit is not required if the shed is:   * not more than 3m in height or if within 1m of a boundary not more than 2.4m in height; **and** * associated with a building of a different class on the same allotment i.e. dwelling, office building, etc.; **and** * is located no further forward on the allotment than the front wall of the associated building; **and** * is not constructed of masonry.   Consent of a service authority may be required to construct a building over an easement or within 1m laterally, i.e. water authority, council etc. |

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Building a fence

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| **FAQ** | **Response** |
| I want to replace a boundary fence, what do I need to do? | Boundary fencing is regulated at the State level. The *Fences Act 1968* contains rules about who pays for a dividing fence, the type of fence to be built, notices that neighbours need to give one another, and how to resolve potential disputes when discussing fencing works with a neighbour.  If you have questions about boundary fences refer to the [Disputes Settlement Centre](https://www.disputes.vic.gov.au/information-and-advice/fencing) of Victoria website.  Council is not the regulator for boundary fencing. However, if your land is affected by certain overlays (e.g. Heritage Overlay or Land Subject to Inundation Overlay), a Planning Permit is generally required for replaced fencing. |
| I have a fencing dispute with my neighbour | The Victorian Government’s [Dispute Settlement Centre of Victoria](https://www.disputes.vic.gov.au/) have information on issues and disputes on boundary fencing on their [website](https://www.disputes.vic.gov.au/information-and-advice/fencing). Alternatively, please call them on [phone number].  Council is not involved in such disputes. |
| What is a Notice to Fence? | A [Notice to Fence](https://www.basscoast.vic.gov.au/building-planning/building/boundary-fences) sets out your proposal for construction or repair of a dividing fence or other works. You will need to fill out information about:   * the line on which the works should be carried out (the boundary line) * the type of works * the contractor * a cost estimate, and * how much neighbours should contribute.   You can hand the Notice to Fence to your neighbour directly but it is recommended you utilise registered post, so you can show that you sent it and the day it was received. |
| How do I obtain my neighbours details? | Council’s Customer Service Department can provide the name and address of adjoining property owners for the purpose of contacting them to construct or repair a fence. To comply with Privacy laws, you will need to complete a [Fencing Information Form](https://www.basscoast.vic.gov.au/building-planning/building/boundary-fences) and return it to xx. The form is also available from our Customer Service Centres. You will need to provide proof of identification when you lodge the form. |

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| **Implementation notes:** Review and revise to suit Council’s preferred response or local law. |

Building a pergola, veranda, deck, or carport

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| **FAQ** | **Response** |
| What is a pergola? | A pergola means an open structure that is unroofed but may have a covering of open weave permeable material. |
| What is a veranda? | A veranda means a solid roofed structure with openings on one or more sides and attached to a building or house. |
| Is a planning permit required for a pergola or veranda? | In most circumstances, a planning permit is not required.  A planning permit is not required for an open-sided pergola or veranda if:   * The structure has a finished floor level not more than 800mm above ground level and a maximum height of three metres above ground level; or * The land is residentially zoned and has an area of more than 300m2   There are exceptions where the land is affected by an overlay that may trigger a planning permit for certain buildings and works. You can check the zones and overlays that apply to your property at [VicPlan](https://mapshare.vic.gov.au/vicplan/?RunWorkflow). |
| Do I need building approval for a pergola? | A pergola does not require a building permit, providing it is:   * not more than 20m² in floor area; and * not more than 3.6m in height; and * located no further forward on the allotment than the front wall of the building to which it is appurtenant; or * located no further forward than 2.5m of the front wall of the building to which it is appurtenant. |
| Do I need building approval for a pergola? | Yes, a building permit is required to construct a veranda. |
| Is a planning permit required for a deck? | In most circumstances, no. A planning permit is not required for deck associated with a dwelling:   * The structure has a finished floor level not more than 800mm above ground level; or * The land is residentially zoned and has an area of more than 300m2   There are exceptions where the land is affected by an overlay that may trigger a planning permit for certain buildings and works, You can check the zones and overlays that apply to your property at [VicPlan](https://mapshare.vic.gov.au/vicplan/?RunWorkflow). |
| Do I need to obtain a building permit for a deck? | Yes, a building permit is required to construct a deck irrespective of its size. |
| Is a planning permit required for a carport or garage? | In most circumstances, a planning permit is not required to build a carport or garage associated with an existing dwelling.  However, there are exceptions to this where the land is less than 300m2 or is affected by an overlay that may trigger a planning permit for certain buildings and works, You can check the zones and overlays that apply to your property at [VicPlan](https://mapshare.vic.gov.au/vicplan/?RunWorkflow).  It is recommended that you contact council about your proposal to ensure the permit requirements can be confirmed. |
| Do I need to obtain a building permit for a carport or garage? | Yes, a building permit is required to construct a garage or carport assuming it is larger than 10m2 (i.e. 4m long by 2.5m in width). |
| How do I apply for a building permit? | You will need to engage a private building surveyor to obtain a building permit for your shed. council does not offer building permit services.  For more information on appointing a building surveyor, you can contact the Victorian Building Authority. |

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| **Implementation notes:** Review and revise to suit Council’s preferred response or local law. |

Pruning or removal of a tree

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| **FAQ** | **Response** |
| Do I need a permit to remove vegetation on my land? | You will need permission to remove or prune a tree in your garden or land if:   * It is covered by a Vegetation Protection Overlay, Significant Landscape Overlay, Erosion Management Overlay, Environmentally Significant Overlay (and the vegetation type is not listed as exempt within this overlay); * the vegetation is native (remnant or remnant regrowth) **and** your land is over 4,000m2 in area. |
| Is there a Local Law that applies to my property to remove vegetation? | Council to complete if applicable |
| Do I need to a permit to clear vegetation to manage the risk of bushfire? | Specific exemptions apply in the planning schemes allowing you to clear vegetation around your property to create or maintain defendable space for bushfire protection without the need for a planning permit subject to certain requirements. These exemptions are located at [Clause](https://planning-schemes.delwp.vic.gov.au/schemes/vpps/52_12.pdf?_ga=2.55628779.151394788.1595199496-899408773.1556675708) 52.12 (*Bushfire Protection Exemptions)*.  If you would like to check if your property is within the Bushfire Prone Area of Bushfire Management Overlay, please visit the VicPlan website where you can input your address and check if the mapping applies to you.  You can find the exemptions at [Clause 52.12 Bushfire Exemptions](https://planning-schemes.api.delwp.vic.gov.au/schemes/vpp/52_12.pdf) and on the [Department of Environment, and, Water and Planning (DELWP) website here](https://www.planning.vic.gov.au/policy-and-strategy/bushfire/prepare-your-property/vegetation-removal-for-bushfire-protection).  It is important to satisfy yourself that the exemptions apply to you before you undertake any clearing of vegetation. |
| Does my application qualify for VicSmart? | The removal of a single tree in a Vegetation Protection Overlay, Environmental Significance Overlay or Significant Landscape Overlay is eligible for VicSmart. |
| Do I need to engage a consultant to put together an application? | For the removal of a single tree, you could lodge an application without needing to engage a planning consultant or draftsperson. However, you must provide the requirements outlined in council’s Checklist. This includes obtaining an Arborist’s Report outlining the health and condition of the proposed tree as well as a Site Plan showing the species of the tree. |
| Can I remove a tree on my land for safety reasons? | If the vegetation presents an immediate risk of personal injury or damage to property, it may be removed without a permit. Only the part of the vegetation that presents the immediate risk may be removed.  For example, a limb of a gum tree has half broken and is hanging and requires removal. Only this limb poses an immediate risk and may be removed. After this point, you may choose to have the entire tree assessed by an arborist for health and condition to determine whether it is necessary to remove the whole tree.  It is your responsibility to ensure that you can demonstrate with appropriate evidence that the vegetation presented an immediate risk.  If you are unsure whether a particular tree poses an immediate risk you should contact a suitably qualified arborist to assess the tree for you. |
| Can Council come assess and or remove my tree? | No. Whilst planning permission may be required to removal a tree, the removal itself is a civil matter and council does not undertake these works.  In the same manner, if you required a building permit for demolition, council does not demolish your building for you. |

Building a single dwelling

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| **FAQ** | **Response** |
| Do I need a planning permit? | Generally, you will not need a planning permit to construct a single dwelling if the lot is greater than 300 square metres in area and in the General Residential Zone or Residential Growth Zone. However, this is subject to any other Overlays on the land and no existing planning permit having been previously issued.  To discuss whether your proposal requires a planning permit, contact our Planning Department on 1300 BCOAST (226 278). If you require written advise please submit a Planning Information Request [insert link] with the applicable fee and detail. |
| What applications fees apply to this type of permit? | The cost of the application depends on the estimated cost of works. Refer Council’s Fee Schedule to see current fees. |
| Is my application eligible for VicSmart? | A new dwelling is generally not eligible for VicSmart due to the potential for amenity impacts to neighbours and the need for a more detailed assessment. |

Building two or more dwellings

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| **FAQ** | **Response** |
| Can I build a second dwelling on my land or build two or more dwellings on land? | Planning and building permits are respectively required to develop land in a way that will result in two or more dwellings on a given parcel of land. This includes constructing a dwelling to the rear of an existing or constructing two dwellings on a vacant parcel.  It is important to keep in mind that although a permit can be granted, it does mean a permit will be necessarily granted in your case. Council must assess all the relevant information during the application process before a decision can be made. Council will determine whether the proposal will produce acceptable outcomes against the relevant clauses of the [council name] Planning Scheme. It is therefore not possible to advise whether an application will be supported before it a decision is made. |
| How many houses can I get on my block? | There is no defined method to determine how many dwellings can be developed on a parcel of land. Whether a particular design, including number of dwellings, is appropriate will be determined during the permit application process. You are advised to speak with your draftsperson or architect to get an indication of what may be possible as it depends on the design and how they work within the constraints of the land. |
| Do I need to engage a consultant to put together an application? | Many applicants engage a draftsperson/architect or planning consultant to put together an application given the complexities in navigating the various controls which may apply to the land, as well as the potential of receiving objections by neighbours. A higher quality application will generally lead to faster processing times. It will also ensure a clear line of communication between the council allocated planner should there be any issues raised with your submission. |

Subdivision

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| **FAQ** | **Response** |
| Can I subdivide my property or land I’m interested in buying? | A planning permit is required to subdivide land. It is important to keep in mind that although a permit can be granted, it does mean a permit will be necessarily granted in your case.  There is no defined method to determine whether subdivision of land is possible upfront. Whether a particular parcel of land can be subdivided is ultimately determined by the planning permit application process. In assessing the application, council will determine whether the proposal will produce acceptable outcomes against the relevant clauses of the [Council Name] Planning Scheme, including Clause 56 Subdivision for subdivision in residential areas. |
| How do I find a Licensed Land Surveyor? | The Association of Consulting Surveyors is an autonomous body which represents private land surveying businesses throughout Victoria. Speak to friends or neighbours to find a Land Surveyor, alternatively you can utilise the [ACSV search function](https://www.acsv.com.au/content/39/find-a-surveyor-land-vic-residential-surveyors.aspx) on their website. Council is unable to recommend a Land Surveyor and must remain impartial as part of our duties in assessing your proposal. |
| What do I need to do to proceed with an application to subdivide land? | To prepare an application to subdivide land, you will need to engage a licensed surveyor.  They can lodge the application on your behalf or recommend a private Town Planning professional to act on your behalf. Other relevant professionals may need to be engaged, such as engineers or arborists. |
| What is the subdivision process? | Please refer to council’s Checklist for more information on the subdivision process. |
| What are the fees for subdivision? | Please refer to Class 17-20 of the fee schedule to find the applicable fee. |

Developing rural areas

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| **FAQ** | **Response** |
| Do I need a planning permit for a building on my rural property? | A permit may be required for your shed, dwelling or other building or land use depending on the size, location, zoning and overlays of the land.  You can contact the Planning Team on [phone number] to confirm whether your proposal requires an application for a planning permit. |

Removing or varying a covenant/restriction

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| **FAQ** | **Response** |
| What is a restrictive covenant? | A restrictive covenant is a private written agreement between landowners to restrict the use or development of land for the benefit of other land. They are commonly applied when a developer subdivides land for sale and wishes to apply some restrictions on the use and development of the lots to benefit or protect other land. Some examples of covenants include the requirement that:   * No more than one dwelling be constructed on the land. * No quarrying on the land. * Any dwelling on the land must be constructed from brick.   If your proposed development breaches a covenant, council is prohibited from issuing a planning permit. You will need to seek your own independent legal advice to explore varying or removing the covenant. |
| How do I get a copy of a covenant? | Council does not maintain a registry or record of covenants.  The existence of a restrictive covenant is recorded on the Certificate of Title for the land. To determine whether your property is affected by a restrictive covenant, please visit [Landata and select ‘Titles & property certificates’ and request an electronic copy to be emailed to you.](https://www.landata.vic.gov.au/) If you have any trouble navigating the website or obtaining a covenant please e-mail [Landata.enquiries@victorianlrs.com.au](mailto:Landata.enquiries@victorianlrs.com.au) or call 9102 0402. |
| Can you help me interpret my covenant? | Covenants can be difficult to understand due to the legal terminology used and various case law. You are therefore advised to engage your own independent legal advice to interpret a covenant.  Even covenants which appear similar may use slightly different words, resulting in different restrictions on the use or development of the land. Each covenant should be individually interpreted, meaning a Lawyer can be helpful. |
| How do I remove or vary a covenant? | The most common methods of removing or varying a covenant includes:   1. Applying for a variation or removal via a planning permit lodged with [Council name]. 2. Lodging an application through the Supreme Court;   An application through council will involve advertising to all beneficiaries and an advertisement in the newspaper to ensure that there are no valid objections in the community. Generally, if a neighbour objects to the issuing of a planning permit to vary or remove a covenant, council will likely have to refuse your application. |
| What are the fees for associated with lodging an application to vary or remove a covenant? | Refer to Class 21 of the fee schedule on council’s website for the applicable fee.  Please be advised, the cost of engaging a Lawyer/Solicitor or a Planning Consultant is likely to be significantly higher and should also be considered. |
| What do I need to submit to lodge a planning permit application? | Refer to council’s Checklist on Covenant Removal for more information. |

Changing the use of land or building

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| **FAQ** | **Response** |
| Do I need a planning permit to change the use of my land? | A planning permit is generally required for a change of use application. Contact the Statutory Planning Department on [insert phone number] to discuss further. |
| What do I need to submit to lodge a planning permit application? | Refer to council’s Checklist on Change of Use for more information. |
| What are the fees for associated with lodging an application to change the use of my land? | Refer to Class 1 of the fee schedule on council’s website for the applicable fee. If development (buildings and works) is also proposed, the fee will consider this too. |

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| **Implementation notes:** Review and revise to suit Council’s preferred response or local law. |

Starting a business, or operating a food truck

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| **FAQ** | **Response** |
| I am starting a business, what do I need? | If you are starting up or running a business in [Council name] you may need different permits and registrations including:   * Footpath Trading - all trading on community footpaths. There are three types of Footpath Trading Permits:   + Advertising sign (A-Frame) Permit   + Display of Goods Permit   + Outdoor Dining Permit (includes tables and chairs, windbreaks, umbrellas and heaters). * Beauty Therapy Businesses - all new hairdressing, skin penetration, tattooing, beauty therapy, electrolysis and ear-piercing businesses must register before operating. * Food Premises - All Victorian food business that handle, prepare, package, store, serve, supply or convey food must be registered with council.   Email our Business Support Team at X. |
| Do I need a planning permit for a home-based business? | Confirm the zoning of your land by using the [VicPlan](https://mapshare.vic.gov.au/vicplan/) website and typing in your address. A planning permit is generally not required if your land is in the:   * Rural Living Zone * Rural Conservation Zone * Farming Zone * Rural Activity Zone * Commercial 1 Zone * General Residential Zone * Residential Growth Zone * Low Density Residential Zone * Mixed Use Zone * Township Zone   You will generally not require a planning permit to use the land for a home-based business subject to meeting the requirements of Clause X (Home Based Business) of the [Council name] Planning Scheme. |

Displaying a sign

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| **FAQ** | **Response** |
| Do I need a planning permit to display a sign? | Depending on the zone, type, and size of the sign, certain types of applications do not a require planning permit.  For example, in the Commercial 1 Zone, a business identification sign does not need a planning permit if the total display area of all signs to each premises does not exceed 8sqm. However, in the Farming Zone, a business identification sign requires a planning permit, while if signs are more than 3sqm in area, it is prohibited.  Please note, in a Heritage Overlay any type of sign requires a planning permit.  To discuss further, please contact council’s Statutory Planning Department on [phone number]. |
| What do I need to submit to lodge a planning permit application? | Refer to council’s Checklist on Signs for more information. |
| Is my application eligible for VicSmart? | Most signs are eligible for VicSmart (except those which may cause amenity impacts including but not limited to internally illumined, electronic, animated or floodlit). Refer to the [Department of Environment, Land, Water and Planning VicSmart website](https://www.planning.vic.gov.au/permits-and-applications/vicsmart) for more information. |
| What are the fees to lodge a sign application? | Refer to Class 11 of the fee schedule on council’s website for the applicable fee, or Class 7-10 for VicSmart applications. |

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| **Implementation notes:** Review and revise to suit Council’s preferred response or local law. |

Tiny House/Granny Flat/Bed and Breakfast

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| **FAQ** | **Response** |
| Can I put a tiny house on my property? | Whether a planning permit is required for a ‘tiny house’ will depend on several factors.  This includes the makeup of the tiny house. If the tiny house includes; a kitchen sink, food preparation facilities, a bath or shower, and a toilet and wash basin, it may be considered to be a dwelling. A planning permit is required for a second dwelling in all zones.  If the tiny house is for a dependent person, a planning permit may not be required.  If the tiny house does not include all the above-mentioned items, for example it does not have food preparation facilities or toilet, it might not be considered a self-contained dwelling. If this is the case, the tiny house is considered to be an extension to an existing dwelling, which on most residentially zoned land does not require a permit unless there is an overlay.  It is recommended that you contact council about your proposal to ensure the permit requirements can be confirmed. |
| Can I rent out my tiny house or have friends and family come stay? | If the tiny house is not considered to be a self-contained dwelling (i.e. self-contained and contains kitchen sink, food preparation facilities, a bath or shower, and a toilet and wash basin) it may form an extension to your existing dwelling as an additional bedroom for friends and family or as a Bed and Breakfast.  In most circumstances this would not typically require a planning permit, however, a permit will be required on:   * residential lots less than 300 square metres in area, * residential land with particular overlays, * or some non-residential land.   It is recommended that you contact council about your proposal to ensure the permit requirements can be confirmed. |
| Can I set up a bed and breakfast? | The common meaning of ‘bed and breakfast’ is different to the definition of a bed and breakfast within the Planning Scheme. A bed and breakfast is defined as:  ‘A dwelling used, by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence’.  To be classified as a bed and breakfast:   * There must be an existing dwelling; * The dwelling must have a resident. i.e. you live in the dwelling and rent out a back bedroom or habitable room to a person on holidays. * **Must not be defined a separate or additional dwelling that (i.e. fully self-contained)**   Provided the definition is met, a planning permit is not required in most zones to use the land for a bed and breakfast.  As there are exceptions to, you are encouraged to contact council about your proposal to ensure the permit requirements can be confirmed.  Furthermore, a separate council permit may be required for Short Stay Accommodation under The *Public Health and Wellbeing Act 2008*. |
| Can I put a granny flat (dependent person’s unit) on my property? | The Planning Scheme refers to a granny flat as a ‘dependent person’s unit’.  A dependent person’s unit (DPU) is defined as:  *‘*A movable building on the same lot as an existing dwelling and used to provide accommodation for a person dependent on a resident of the existing dwelling.’  To meet this definition, the building therefore must be:   * moveable, meaning capable of ‘*designed to be moved from place to place on more than one occasion’*. The building may be moveable from a modular design or small size which fits on the back of a truck. * to provide accommodation only for a person(s) dependent on you. This may be your elderly parents or vulnerable person that is dependent on you.   If the criteria are not met, it is considered a second dwelling and will require a planning permit (Note: In a Green Wedge Zone and Rural Conservation Zone a second dwelling is prohibited).  In most cases under the X Planning Scheme (except for the Rural Conservation and Green Wedge Zones), a planning permit may not be required for a DPU, provided it is the only DPU on the lot. Note, if your land is located in the Industrial 1 and 2; and Commercial 2 Zone, a DPU is prohibited.  If your land contains Overlays (e.g. a Land Subject to Inundation Overlay or Vegetation Protection Overlay) a Planning Permit may still be required. |
| Do I need a Building Permit for a granny flat (dependent person’s unit)? | As a Building Permit will be required for a DPU, you will need to consult with a registered Private Building Surveyor to ensure works comply with legal requirements and to issue a building permit for you. The Victorian Building Authority [website](https://www.vba.vic.gov.au/consumers/home-renovation-essentials/appointing-building-surveyor) provides information on how to appoint a surveyor as well as a [register](https://www.vba.vic.gov.au/tools/find-practitioner) of building practitioners to contact. |

Amending or ending a Section 173 agreement

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| **FAQ** | **Response** |
| What is a Section 173 Agreement? | A Section 173 Agreement is a legal contract made between council and another party or parties under Section 173 of the *Planning and Environment Act 1987*.  A landowner is normally the other party to the Agreement, while in some cases a third party, such as a referral authority, may also be involved.  An agreement provides for continuous restrictions or on-going requirements on the use or development of the land. |
| How do I amend or end a Section 173 Agreement? | Section 177 and Section 178 of the *Planning and Environment Act 1987* set out circumstances in which agreements may be ended or amended.  One such method is by obtaining the written consent and agreement of all parties to the agreement. However, this can take time and may be impossible to achieve if there is opposition to the proposal or many parties are involved.  In these cases, you can apply to council to amend or end a Section 173 Agreement and have it removed from the land title. The process for applying to amend or end an agreement is explained in the relevant question below.  Depending on the complexity of the Agreement, the amending / ending proposal will be dealt with by council officers, and may be referred to council’s solicitors if required. |
| What fees are involved to Amend of End a Section 173 Agreement? | A statutory fee applies to an application to consider a proposal to amend or end a Section 173 agreement. Please consult the following website for information on the fees relevant to your proposal <https://www.planning.vic.gov.au/legislation-regulations-and-fees/planning-and-subdivision-fees>.  If council’s solicitors are required to be consulted, you will be responsible for covering any such costs additional to the application fee - you will be provided with an estimate of costs prior to any review being undertaken. |
| What is the process for amending or ending a Section 173 Agreement? | 1. An Amending / Ending Section 173 Agreement Application Form is submitted to council along with the required supporting documentation and a statutory fee. 2. The application is considered by council officers who conduct referrals as required. 3. The applicant and owner are notified by council officers as to whether Council agrees ‘in principle’ to the proposal. 4. If Council decides that it does not agree 'in principle' to a proposal to amend or end an agreement, the matter will not proceed, and the agreement will remain in place unchanged. The applicant does not have the ability to apply to the Tribunal to review this decision. 5. If Council does agree ‘in principle’ to a proposal to amend or end an agreement, the proposal must be advertised to all parties to the agreement and any other persons to whom council considers the decision to amend or end the agreement may cause material detriment. 6. This advertising process will commence within 21 days of council giving notice to the applicant that it agrees ‘in principle’ to the proposal and lasts for a period of at least 14 days. 7. Advertising may include placing a sign on the land concerned, publishing a notice in newspapers generally circulating the area, giving notice personally or by post, or any other way considered appropriate. 8. If an objection or submission is lodged during the advertising period, council will give notice of its decision on the application to both the applicant and each other person that made an objection or submission. If no objection or submission is lodged, council will give notice of its decision to the applicant only. 9. Council’s decision on the application may be any of the following:  * amend or end the agreement in accordance with the proposal; * to amend or end the agreement in a manner that is not substantially different to the proposal; * to amend or end the agreement in a manner that is substantially different to the proposal (will require notice of the revised proposal as if it were a new proposal); or * to refuse to end or amend the agreement.  1. If council decides to amend or end an agreement, it will not proceed to implement any changes until: 2. At least 21 days after the giving of notice of its decision to amend or end an agreement: or 3. Where an application for review has been made within the 21 days, until the matter has been determined by the Tribunal. 4. It is the applicant’s responsibility to take the required documentation to the Land Titles Office for registration and to ensure that the agreement is registered in a timely manner. Any change or ending of a Section 173 Agreement must be registered on the title to the land to which it applies, in accordance with the requirements of the Planning and Environment Act 1987. This ensures that all future land owners are aware of, and bound by, the requirements of the Section 173 Agreement. Any costs associated with the registration of the agreement are entirely the responsibility of the applicant. 5. Once the Section 173 has been registered at the Land Titles Office, the applicant is required to send council a copy of the Land Use Victoria Lodgement Report confirming the registration. |