

Town Planning Guidelines for Non-Government Schools

*Every
child,
every
opportunity*



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Introduction

Schools contribute to the education and development of young Victorians. Schools are generally located in residential areas and are part of the residential fabric. They are often a hub in local communities, providing opportunities to share facilities that may otherwise not be financially viable for a community. School swimming pools, gyms and sporting ovals are all facilities that may be used by the community. Schools have a key role in serving the local community's educational needs. Sharing school facilities with the community promotes efficient use of urban areas, consistent with state and metropolitan planning policies.

The *Town Planning Guidelines for Non-Government Schools* (the guidelines) provide a general guide to [Victoria's Planning Schemes](#), to assist non-government schools applying for planning permits to extend or upgrade their buildings and grounds. The guidelines aim to clarify the requirements for non-government schools at each stage of the planning process. The guidelines bring together information from a number of sources particularly, the [Planning: a Short Guide 2007](#), publication developed by the Department of Planning and Community Development.

While the planning requirements at local councils may differ, there are common processes that apply to all non-government schools. The guidelines outline the common processes.

These guidelines give general information on planning schemes and the legislative requirements councils must consider when deciding on applications for planning permits. They also explain planning scheme maps, ordinance, zones and overlays and describe the difference between use and development.

The guidelines set out what schools need to do before making an application for a planning permit, the steps to follow in preparing the application, and what happens when an application is lodged. The guidelines also cover advertising, objections, mediation and permit conditions.

These guidelines are intended only as a guide to the planning system and legislation in Victoria. They are not a substitute for official documents such as Acts, regulations and planning schemes.

Overview of the planning process

There are no specific state planning provisions for non-government schools. The Planning Schemes outline a number of planning objectives for education facilities. However, the importance of integrating school facilities into the community is clear, as is the importance of considering demographic trends in order to provide for existing and future requirements. Key considerations for implementing the State Planning Objective, are that primary school children should be within walking distance of school and secondary schools be easily accessible by public transport.

Considering the State Planning Objective, councils may have included additional local provisions and requirements to assist with decision-making in relation to the upgrading or extension of non-government school facilities. These requirements often relate to the local physical environment or its historical links.

As mentioned earlier, council requirements may differ, but there are common planning processes that apply to all non-government schools. These include:

- Pre-application discussions with the local community and planning authorities to reach agreement on the educational and developmental outcomes the school is striving to achieve for the community through the addition or enhancement of facilities
- Seeking specialist advice from a range of consultants
- Preparation and lodgement of a planning permit or exemption
- The council's preliminary assessment process and timelines
- The council's formal assessment process and timelines
- The council's formal decision-making processes.

Councils must take into account both the state and local planning policies when making a planning decision.

General information

Every municipality has its own planning scheme, which is displayed at the public information counter at the council's planning department.

What is planning?

Planning refers to the decisions that change the environment and affect everyday life. These decisions might be about public transport, the size of a new sporting oval, the location of a park, bike path or new road. These planning decisions may influence how young Victorians get to school, the location of new schools, and what communities do in their leisure time.

Councils make most of the planning decisions that affect their municipality. For example, what permit conditions are appropriate. The council planning department provides information and advice about the planning scheme, and processes and coordinates planning proposals for the council's consideration.

What are Victoria's Planning Schemes?

Victoria's Planning Schemes control land use and development within municipalities. Planning schemes contain state and local planning policies, zones, overlays and other provisions that affect how land can be used and developed. A planning scheme indicates if a planning permit is required to change the use of land, or to construct a building or make other changes to the land.

A copy of every planning scheme in Victoria is available to inspect at the Department of Planning and Community Development, and online at <http://www.dpcd.vic.gov.au/planningschemes>.

What information is in a planning scheme?

There are two types of information in a planning scheme: a set of planning scheme maps that show the zones and overlays that apply to land covered by the scheme, and written information and ordinance that set out the requirements of the policies, zones and overlays.

ZONE MAP



Legend			
B1Z	Business 1 Zone	RDZ1	Road Zone Category 1
R1Z	Industrial Zone		

What is a zone?

A planning scheme zones land for particular uses, for example, residential, industrial, business or other. The zones are listed in the planning scheme, and each zone has a purpose and set of requirements. Requirements will describe if a planning permit is required, and the matters that the council must consider before deciding to grant a permit. A zone may also specify information that must be submitted with a planning permit application. The zone also contains information relating to land uses, subdivision of land, construction of new buildings and other changes to the land.

A zone sets out land use controls in three sections:

- Section 1: Land uses that do not require a planning permit.
- Section 2: Land uses that require a planning permit.
- Section 3: Prohibited uses. Some uses are not allowed on land in a zone because they may conflict with other uses; for example, industry is prohibited in the Residential 1 Zone.

An overlay may specify information that must be submitted with an application for a planning permit.

Overlays on specific school sites can be located in the [Planning Property Report](#), available from the Department of Planning and Community Development website.

What is an overlay?

The [Planning Scheme](#) map may show that a piece of land has an overlay as well as a zone affecting it. Not all land has an overlay. Some land may be affected by more than one overlay. If an overlay applies, the land will have some special feature such as a heritage building, significant vegetation or flood risk. The Heritage Overlay, for example, applies to heritage places of natural or cultural significance and describes the requirements that apply.

The overlay will indicate if a planning permit is required for the construction of a building or other changes to the land. For example, if a Heritage Overlay applies, a planning permit is required to demolish an existing building. The Heritage Overlay requires the council to consider, before it grants the permit, whether the demolition of the building will lessen the significance of the heritage place.

Some school sites are affected by local council overlays. Sometimes, the preliminary consultation with the council may result in the project being changed or abandoned due to local provisions and controls that apply to the school site. In other cases, specialist advice may need to be sought to alleviate any concerns.

Local council overlays most often relate to technical issues, which require specialist input in areas such as:

- Arboriculture
- Heritage
- Engineering (e.g. land subject to inundation)
- Urban design
- Landscape
- Environmental audit (e.g. land contamination)

What do ‘use’ and ‘development’ mean?

Use of land refers to using land for a particular purpose (such as a sporting ground) and may not involve building anything.

Development includes the construction, alteration or demolition of a building or works and the subdivision or consolidation of land.

Master planning

Master planning is only needed where specified in the Planning Scheme provisions affecting a particular school site, as identified in the Planning Property Report obtained from the Department of Planning and Community Development. A requirement to complete a master plan will either be identified as an overlay to a Residential Zone or by the site being included in a Special Use Zone.

Where a master plan is required, it is advisable to seek professional advice before the planning process commences.

Special Use Zones are applied in cases that are generally not suited to the application of a Residential Zone, such as in Non Urban, Farming, Rural and Rural Conservation areas. In these cases, the requirements for permits for schools are included as controls in the overlay.

Existing use

Schools that have been operating on their current site for decades may have existing use rights. These rights allow the use of land and buildings to continue without the need for a land use permit. Existing use rights can limit the range of requirements that the council can place on an existing school when it applies for a planning (building and works) permit.

Urban Growth Zone

The Urban Growth Zone has been applied in Melbourne's designated growth areas. It is used to manage the transition of non-urban land into urban land. A Precinct Structure Plan must be prepared before urban use and development can proceed in the Urban Growth Zone. Precinct Structure Plans guide the future development of land. They give developers, investors and local communities greater certainty about future development in growth areas, including the likely location of schools. The Urban Growth Zone and Precinct Structure Plans are also intended to reduce the number of development approvals needed in areas where an agreed plan is in place.

The Growth Areas Authority (GAA) is an independent statutory body with a broad role in the planning and development of Melbourne’s growth areas and a leading role in preparing Precinct Structure Plans in the growth areas, alongside the relevant council.

Before a Precinct Structure Plan is prepared, the Urban Growth Zone provisions safeguard land from use or development that could frustrate the long-term plans for the area. The zone does allow for permit applications for certain ‘early’ uses to be considered before a Precinct Structure Plan is in place. This is to facilitate the provision of essential facilities and services to new residents in the precinct. Schools are one of the ‘early’ uses that can be considered.

Schools that are located in or are considering locating in a growth area are encouraged to get involved in the Precinct Structure Planning process.

Schools should ensure that any proposals in an Urban Growth Zone are consistent with an agreed Precinct Structure Plan.

Schools considering establishing in an Urban Growth Zone as an ‘early use’ are encouraged to discuss their proposal with the council and the Growth Areas Authority.

More information about the Urban Growth Zone is available:

- From the relevant council
- From the Growth Areas Authority, phone 03 9651 9610, email: info@gaa.vic.gov.au
- on the Growth Areas Authority website: www.gaa.vic.gov.au
- on the Department of Planning and Community Development website: www.dpccd.vic.gov.au/planning
- in Victorian Planning Provisions Practice Note – Urban Growth Zone, June 2008

Finding the information in the planning scheme

Planning scheme maps are usually kept at the council's planning counter. A copy of every planning scheme is also available online at [Victoria's Planning Schemes](#). Symbols are used for the zones and overlays shown on the maps. For example, all land in the Residential 1 Zone is marked with the symbol R1Z, and all land affected by a Heritage Overlay is marked with the symbol HO and a number. The land may also be affected by one or more overlays. Zone and overlay information is shown on separate maps.

If you wish to examine a planning scheme:

- Look at all the maps that apply to the school's location. Identify the zone and overlays that apply
- Look in the written (ordinance) part of the planning scheme to find out what the zone and overlays mean and what planning policies and other provisions apply.

You need to look at both parts of the scheme.

The zones and overlays that apply on specific school sites are also shown in the [Planning Property Report](#), available from the Department of Planning and Community Development website <http://www.dpcd.vic.gov.au/planning>

Alternatively, talk to the council planning staff and explain your interest in the planning scheme. Ask them to show you the relevant sections. They can explain what the information means, and how it affects the land you are interested in. Ask for a copy of this information.

What is a planning permit?

A planning permit is a legal document that gives permission for a use or development on a particular piece of land. To obtain a permit, an application must be made to the council. If the council agrees with the proposal, it will grant a planning permit.

What obligations does a permit impose?

The permit contains written conditions and usually has endorsed plans that show what is to be built and how the land can be used. The proposed use or development must satisfy all the conditions on a planning permit and comply with the endorsed plans. This means that the use or the buildings and works must be exactly as shown on the endorsed plans. The approved planning and building plans must also be consistent.

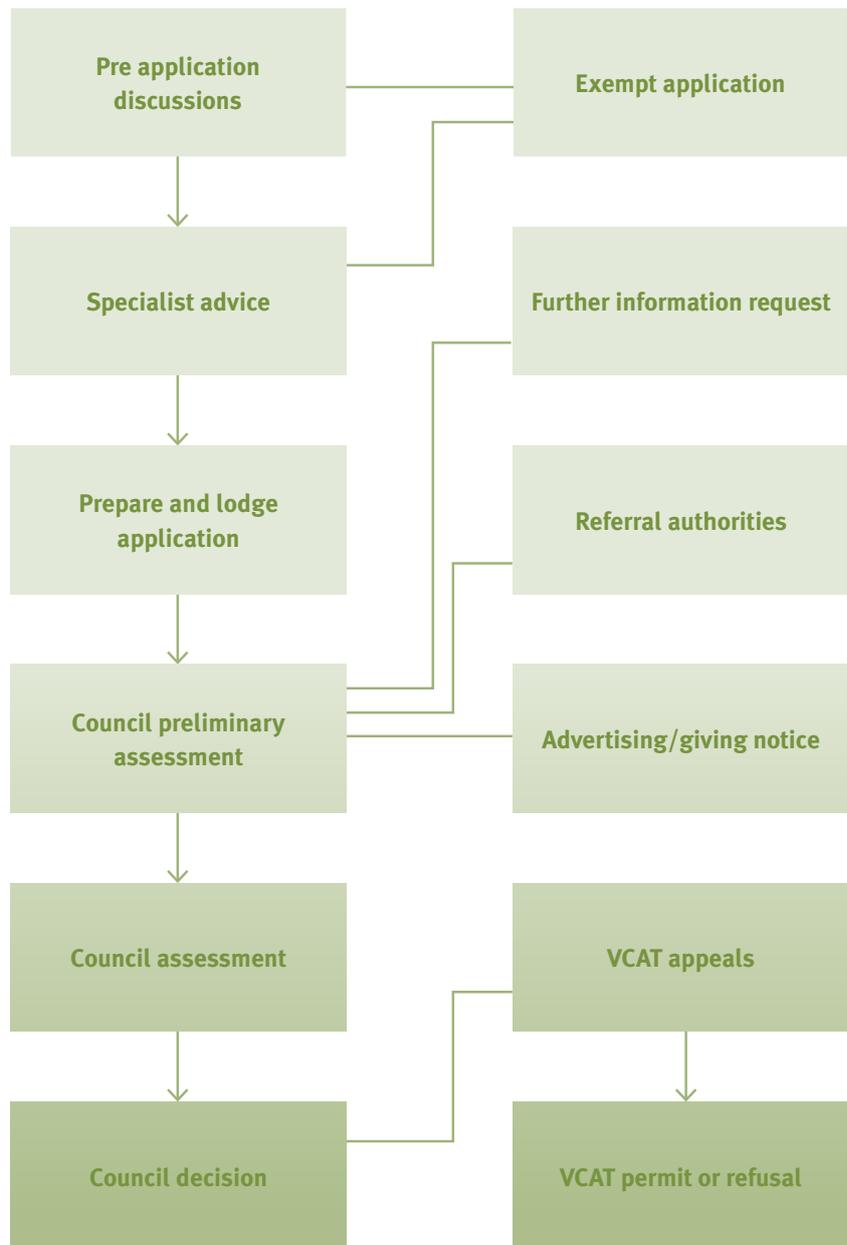
The council also has to approve minor changes to the approved plans. The planning scheme car parking controls for non-government schools are based on staff numbers, through the on-site parking controls.

Additional information – car parking controls

The Planning Scheme has car parking controls at Clause 52.06. The basis of planning scheme car parking control for non-government schools is staff numbers through the on-site parking controls. A rate of one car space per employee for primary schools and 1.2 car spaces per employee for secondary schools applies. If the school cannot provide the required number of spaces on site the planning scheme at Clause 52.06 sets out a process to request a reduction or waiving of the number of car parking spaces required. The car parking provisions do not relate or operate to control student numbers. Councils may use the planning application process to seek to improve existing conditions for access, drop-off or pick-up zones. It is up to the individual school to consider these requests but it is not a requirement of Clause 52.06 that the request be accepted or changes accommodated (Councils sometimes have parking precinct plans that specify different requirements to this. This would be shown in the schedule to Clause 52.06).

The planning permit application process

The following section outlines the planning permit application process.



The following information provides an overview of the major actions a school needs to take before an application is submitted to the council, while preparing an application, and after the application has been lodged.

Before you make an application

Before a school makes an application to the council there are a number of actions that may need to be undertaken.

Talk to the council planner

Find out if a planning permit is required and make sure that what you want to do is not prohibited. If a proposal is prohibited, there is no point in making an application, because it will be refused. If a permit is required, get a copy of the planning scheme provisions that the council will use to assess the application. Ask the planner whether the council is likely to support the proposal. Discuss any changes that might be necessary to make the proposal acceptable.

Discuss the reasons for seeking a planning permit

Discussions prior to the planning phase should focus on the needs of the school and its reasons for seeking the permit. The [State Planning Objective](#) outlines the importance of integrating facilities and considering demographic trends and future demands as well as the current need. Discussions should focus on:

- the community being served
- the services being provided to the community
- the level at which the services are to be provided.

Talk to your local community

Taking the time to talk to members of the community at an early stage may save time later if changes can be made to the plans that address their concerns. Most people appreciate the opportunity to discuss plans before the formal notice process commences, although it will not always be possible to make changes that satisfy everybody.

Obtain professional advice

Planning assessment and decision-making are sophisticated processes that involve concepts such as respecting neighbourhood character, achieving good urban design outcomes, protecting reasonable amenity and enhancing heritage significance. The council and the community are looking for proposals that will meet their expectations. Getting the right professional advice at the beginning will help develop your ideas so that you are more likely to meet the council's expectations and achieve your school's objectives.

Engage a town planning consultant

In cases where a school is planning to undertake the initial completion of application documents itself, it may be beneficial to contact a town planning consultant with whom a regular liaison can be developed so that the town planning consultant can become familiar with the site. Town planning consultants can make the task of applying for a permit simpler by managing the process and providing technical advice in preparing the application and addressing specific issues as they arise during the application process. A town planning consultant may also be able to assist schools to understand and make reference to elements of the Planning Property Report required when completing the planning permit application. The town planning consultant will also be able to confirm whether or not a planning permit is required for what is being proposed. Ordinarily schools would seek advice on major projects from either the Catholic Education Office in the case of a Catholic school or the professional association, the Association of Independent Schools Victoria (AISV) in the case of an independent school.

The town planning consultant should be able to provide you with:

- a checklist of documents to include in the application
- the applicable fee structure
- advice on specific issues for the school to consider and address relating to planning scheme controls
- additional requirements due to local policies or conditions
- an indicative time line for the planning process (see Figure 1).

Where a school does not engage a town planning consultant, this information can also be obtained from the council.

Find out if a permit is required

Local council planning and local laws may override these general exemptions. Schools should contact their local council to confirm their proposal falls within one of the above exemptions.

Find out whether a permit is required, what information must be provided with the application, and what policies and provisions the council will use to assess it. Different information will need to be provided for different types of permit applications and might include site plans, elevation drawings or a written report. Refer to the checklist provided at Step 7 on page 17.

Exemptions

There are some buildings and works that do not require a planning permit and other buildings and works that do not require a permit unless specifically required by the planning scheme (Clause 62, Planning Scheme). Some of the most common exemptions are:

- a fence
- a sign
- roadworks
- street furniture, including post boxes, telephone booths, fire hydrants, bus shelters, art work, shade sails and traffic control devices
- park furniture, including seating, tables, shelters, rubbish bins, playground equipment, art work, barbecues, shade sails and drinking fountains
- the internal rearrangement of a building or works, provided that the gross floor area of the building or the size of the works is not increased and the number of dwellings is not increased
- repairs and routine maintenance to an existing building or works
- domestic services normal to a dwelling
- a domestic rainwater tank with a capacity of not more than 4500 litres
- works necessary to prevent soil erosion, or to ensure soil conservation or reclamation

Preparing a planning permit application

Application forms can be obtained at the Department of Planning and Community Development website www.dpcd.vic.gov.au/planning

Step 1:

Pre-lodgement certification

You may consider using the pre-lodgement certification process to achieve a faster processing and decision time line. Check if the council offers the service and how you can use it. Essentially the process involves employing a council-agreed certifier to ensure that your application contains all the required information and is of an adequate standard to be lodged with the council. This avoids delays often associated with incomplete applications. The process may also include conducting meetings with the council planners and neighbours.

Step 2:

Fill out the application form

If a permit is required, fill out the application for planning permit form, provide the required information and pay the required fee.

All councils use a standard application for planning permit form. The council planning department will give you a copy and can help you to complete it.

You must lodge the application form at the council offices. You should get a receipt for the fee paid.

Step 3:

Describe what the permit is for

Clearly describe what you want a permit for. Make sure you describe all the things that need a planning permit so a further permit is not required. Check this with the council planner when lodging the application.

Step 4:

State the cost of development

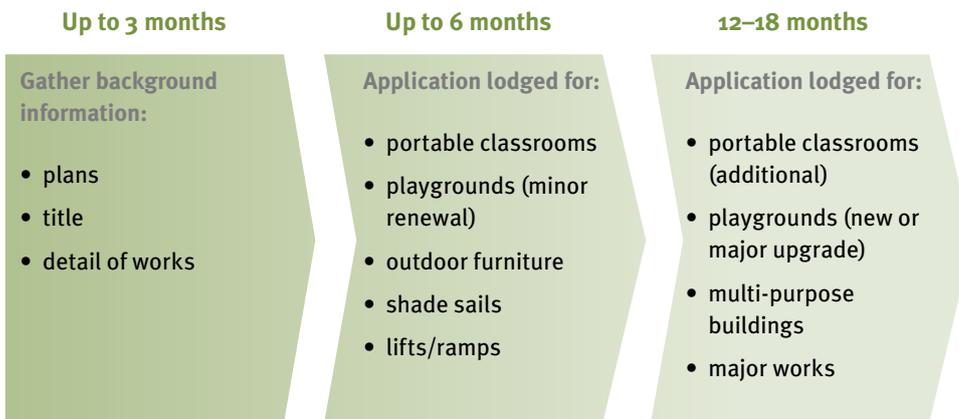
You must provide an accurate estimate of the cost of the development. This will determine the planning application fee. The fee must be paid when you lodge the application. It is paid to the council to consider and assess the application. It is not a fee for approval, so there is no refund if the application is refused. The scale of fees is set down by government regulation.

Step 5:

Attach title information

A current school certificate of title must be provided to the council for all town planning applications. You must also provide a copy of any registered restrictive covenant that affects the land. A full copy of the title and advice as to whether there are any encumbrances (i.e. covenants, S173 Agreements and easements) on the site can be obtained from the Land and Survey Information Centre www.land.vic.gov.au, your solicitor or, if owned by a religious institution, its parish or central governing office. If a registered restrictive covenant does apply, talk to the council planner about what to do next. Dealing with any restrictions may affect the period of time and process required to achieve planning approval (see **Figure 1**).

Figure 1: Indicative time line for planning process



N.B. This is only an indicative time line. Local councils may vary.

Step 6:
Attach the plans and any necessary extra information

If the appropriate information is not provided, the application cannot be processed. The council must have sufficient information to assess your application. The planning scheme may state that particular information is required for certain types of permit applications.

Referral authorities

Prior to lodging the application technical issues can be addressed by experts on behalf of the school with relevant state agencies such as Heritage Victoria, Melbourne Water and VicRoads. This approach ensures the proposal is sound and has the broad support of referral authorities prior to lodgement, and simplifies the planning process.

In some circumstances such as specific overlays and next to Public Use Zones, Planning Schemes require councils to refer applications to a number of agencies. The most common referrals are to:

- VicRoads
- Servicing authorities, e.g. Melbourne Water, Yarra Valley Water and Origin Energy
- Emergency services, e.g. Country Fire Authority
- Department of Sustainability and Environment (for native vegetation issues).

The council is required to include the requirements of referral authorities as conditions on the permit. Councils can also choose to informally notify community interest groups.

In other circumstances, in order to make sure that the proposal does not have unreasonable impacts, the applicant may need to seek specialist advice on:

- Traffic and parking, including access to Road Zone land
- Acoustics
- Architecture, including physical relationships such as overshadowing and visual bulk
- Law, including Section 173 agreements and covenants on title.
- Engineering, including services easements.
- Heritage, and the effect on the heritage significance of a place

Step 7:

Check everything is there

As councils often have their own specific requirements and checklists, it is important to check with the particular council and confirm requirements before submitting an application. In particular, it is important to establish if councils have any local planning policies in their planning schemes that may require specific information to be submitted as part of the application. For rural applications, refer to the Planning Practice Note: *Applying for a Permit in the Rural Zones* (February 2002), available from the Department of Planning and Community Development website www.dpcd.vic.gov.au/planning.

For all planning applications, the following must be provided:

- an application form completed and signed (obtained from the council or the Department of Planning and Community Development website)
- a current copy of title for the land, showing the plan of subdivision
- the prescribed application fee (refer to fee schedule to be obtained from the council or at the Department of Planning and Community Development website)
- details of any registered restrictive covenant.

Make sure that all documents ensuring any changes over the planning period are included.

It is useful to include a covering letter that includes:

- details of all documents submitted
- planning officer contact with whom the matters has been discussed
- a school representative (can be a school staff member or your consultant).

If discussions have been held with government agencies, details of the contacts and advice should also be included in the covering letter and attachments.

Submit the application

Try to lodge the application with the council planner you have discussed the proposal with. Get them to check that all the necessary information is provided.

Note the application reference number and the name and contact details of the council planner responsible for the application.

Use the application reference number in all correspondence with the council.

Keep a copy of all the correspondence from the council about the application. It is an important record of the council's assessment process, and of the dates when decisions were made.

After the application is lodged

You should receive an acknowledgment letter from the council.

The council planner will check the application and advise you (in writing) within a reasonable time if more information is required. If more information is required, you should provide it promptly or the application will not be processed further.

The application is a public document and is available for inspection at the council offices. So that people who may be affected by the proposal can understand what is proposed, copies of plans may be made available to them.

More information

The council may send a letter requiring you to provide more information before it deals with the application. The letter will specify the information that is required to be provided and the date the information is required to be given to the council. The council will nominate what it considers to be a reasonable time for the provision of the information. If the information is not given to the council by the date specified, the application will lapse and you will need a new application if you choose to continue. All information will need to be resubmitted and a new fee paid.

If you have difficulty providing the information by the date specified by the council, you can apply to the council for an extension of time.

This application should be in writing and must be submitted to the council before the lapse date.

The request should be made as early as possible after receiving correspondence from the council.

How is a community notified (advertising)?

A fundamental part of the Victorian planning system is to allow people affected by a planning decision to be given the opportunity to comment on what is proposed before a decision is made.

When the application is lodged, the council decides whether notice will be given to the owners and occupiers of the adjoining land or any other person, and how the notice will be given. This is referred to as advertising.

If the planning scheme specifically states that advertising is not required, or if the council is satisfied that the application will not have a negative impact or cause material detriment to any person, the application will not be advertised.

If formal advertising is required, the council will issue a written direction to advertise the application. This can be expected within a reasonable time after the application is lodged, once all the required information is provided.

The advertising period is at least 14 days. In many non-government school cases advertising has not been required because the school grounds are large and the proposal of a type (e.g. centrally located ramp for disability access) that there was minimal affect on the owners and occupiers of the adjoining land or any other person. When a school is requested to advertise, it is reasonable to ask your local planner the basis of the extent of advertising.

Neighbours are usually notified of the permit application by letter.

Any comments received are called submissions, and these should be lodged with the council during the advertising period. The council must consider them when it makes its decision about the application.

Advertising must be carried out exactly in accordance with the council's direction and the 14-day time frame must be strictly observed. Contact the council planning department if you do not understand what is required.

If the council considers that parties other than the immediate neighbours might be affected by the proposal, you may be directed to place a sign on the street frontage of the land for 14 days and/or a notice in one or more newspapers. The council will usually provide a sign filled out with the required information. You will have to make the sign weatherproof and ensure that it is displayed in accordance with the council's requirements.

With the council planner, confirm the date to appear on the sign, the date from which the sign must be on display, and when the sign can be taken down.

Most councils require a statutory declaration as evidence that advertising has been completed. The application will not be processed further until the advertising has been completed to the council's satisfaction and the statutory declaration returned to the council.

Objections

Submissions that oppose a proposal are referred to as objections.

Most submissions are objections, and they may lead to changes being made to the proposal before the council makes its decision. Submissions can also be made in favour of a proposal.

Objections may be lodged with the council up to the time when it makes its decision about the application; however, objections are usually lodged during the 14-day advertising period. Anyone can lodge an objection. Objections cannot be ignored and the council must consider them when it makes its decision. Although objections may take any form, those relating to reasonable planning concerns will have more influence over the council's decision.

When the advertising period has finished, check if the council planning department has received any objections. If there are no objections and all the referral comments are back, the council planner can assess the application and make a recommendation about whether to grant a permit. Even if there are no objections, the application may be refused if the council planner's assessment is not favourable.

If objections have been received, arrange a meeting with the council planner to discuss them and identify the planning issues. For example, a condition restricting the hours of operation for a community centre or sporting ground might address an objector's concerns about noise late at night.

Many councils encourage meetings between representatives of the school and objectors to discuss the proposal and address the objections. The council will facilitate the negotiation between the parties. As the permit applicant, you can arrange the meeting or negotiate with the objectors individually.

It is often appropriate to bring along specialists prepared to address queries regarding aspects such as traffic and tree protection as well as general planning.

Ask the council planning department for a copy of the objections. Make a note of each objector's name, contact details and their main concern. Offer to meet the objectors on-site to discuss what can be done. Contacting objectors individually may be effective, but be careful that any changes you agree to will not cause problems for other objectors. While it is not always possible to resolve objections and differences of opinion, it is usually worthwhile to try. Make sure you keep the council planner informed about the arrangements you make.

A school may change a plan to meet the concerns of an objector; however a school cannot be forced to make a change by an objector.

The council will consider the objection on its merits and impose change on a school through a condition on the Notice of Decision to Grant a Permit.

The council planner might suggest some changes to the plans or appropriate conditions to address the objections or issues the council has identified when assessing the application. Any further action you take will depend on the nature of the objections, the advice from the council planner and your willingness to negotiate changes.

Changing the application

You are able to ask the council to allow you to change your application, including the plans before advertising is carried out or after advertising to address the concerns of the council planner or objectors. If the request to change the application is made after advertising has been carried out, the council planner may require the application to be readvertised.

Withdrawal of objections

An objection can be withdrawn conditionally, for example, provided that certain changes are made to the conditions imposed. If the objector's requirements are not met, the objection still stands. An objection must be withdrawn or conditionally withdrawn in writing, signed and dated.

The recommendation and permit conditions

Discuss the recommendation and the proposed permit conditions with the council planner before a decision is made. Councils usually use a set of standard conditions, but the planner may decide that special conditions are appropriate. By discussing the conditions early, you may avoid the need to apply for a review because you find the permit conditions unacceptable.

Assessment of the application

The council planner prepares a report describing the proposal, the relevant policies and planning scheme requirements, the assessment process, any objections and referral comments, and the response to them. They then make a recommendation about whether or not a planning permit should be granted. The council planner has to judge how well a proposal meets policy objectives in the planning scheme, and they may have to strike a balance between competing objectives.

An officer of the council may make the decision under delegation. This means a senior officer or committee of officers of the council makes the decision, rather than it being decided by the full council. A decision made under delegation is usually quicker because the application does not have to wait for a council meeting.

Most councils have a policy that identifies applications that may be decided under delegation. If the application is for a major project, or there are a certain number of objections, the application will usually be decided at a committee of council or a full council meeting.

If your application is listed on a council meeting agenda, you might want to make a short presentation to the council in support of your application. With the council planner, discuss if this is possible and appropriate, and find out what notice is necessary for you to speak at the council meeting. Objectors might also make a short presentation at the council meeting.

Council decision process

There are statutory time lines in the planning process that all parties must meet.

Councils should take **no more than 60 days to make a decision**. The 60 days are not consecutive working days. The days, referred to as statutory clock days, are counted based on the days on which the council processes the application to make its decision. The time it takes to make a decision may be extended for a number of reasons, such as a request for further information, information from referral authorities and advertising requirements. However, a decision should generally be made within six weeks after the advertising period.

The council must keep a record of the days it has taken to process an application. An appeal against the failure of a council to decide an application can occur after 60 days. You should check with the council to determine how many statutory clock days have lapsed before you seek an appeal.

The council, after making an assessment makes one of three types of decisions:

- To issue a Notice of Refusal, where the council does not support the proposal
- To issue a Notice of Decision to Grant a Permit where there are objectors
- To issue a permit with conditions, where there are no objectors.

Both the applicant and objectors have a right to appeal to VCAT.

Council issue of a Notice of Refusal

The council or its delegate may refuse to grant the permit and will issue a Refusal to Grant a Permit notice. The grounds for the refusal will be listed on the notice. The council will give a copy of this notice to you and all other parties involved in the application process. Information about applications for review to the Victorian Civil and Administrative Tribunal (VCAT) is printed on the back of the refusal notice.

A council planner may let you know in advance if your application is to be refused and the decision is to be made under delegation. This allows you to make changes to the application to address the council's concerns. However, you are not under any obligation to make changes and, sometimes, there is a fundamental difference between what you want to do and the council planner's assessment of the application that can only be resolved at VCAT.

In some instances, the council planner may recommend that the permit is granted but the council may refuse the application. The council is not obliged to accept the council planner's recommendation and there are many reasons why it may be overturned.

If your application is refused, you have 60 days from the date that notice of the refusal is given to apply to VCAT for a review of the decision. Lodge an application for review as soon as possible to reduce time taken for the VCAT review.

Council issue of a Notice of Decision to Grant a Permit

A permit is nearly always subject to specified conditions that must be met. If there are no objections, the council can issue the permit immediately. If there are objections, the council can only issue a Notice of Decision to Grant a Permit. All concerned parties will receive a copy of the notice. The Notice of Decision to Grant a Permit does not have the same legal status as a permit. However, it signals the council's decision to grant the permit and identifies the conditions to be included on it.

An objector has 21 days to lodge an application for review. If VCAT confirms that no application has been lodged within the 21 days, the council will be able to issue the permit. If an objector lodges an application for review within 21 days of the notice being given, the council cannot issue the permit. The application will be decided by VCAT.

If the council issues a permit, you will receive a copy of the permit and the endorsed plans. These are important documents and should be kept in a safe place. The endorsed plans should not be used as your working plans.

It is not uncommon for an applicant to request a draft copy of the planning permit conditions prior to the council's formal issue of the permit. This will provide for the opportunity to negotiate the terms of the conditions without the need to go through a formal process of review.

Council issue of a permit with conditions and expiry

If the permit is granted, it will include a number of conditions. You must comply with all of the permit conditions. Check the conditions very carefully and note any that must be complied with before the use or development commences. For example, amended plans may be required, or there may be a condition requiring a landscape plan to be prepared and approved by the council. You cannot act on the permit until these conditions have been satisfied and the plans have been endorsed.

Note any conditions about expiry of the permit. Most permits expire two years from the date of issue unless specified times are included as a condition of the permit.

All conditions must have a clear relationship with the reason a permit is being required. For example, building and works permits should not contain land use controls. If a permit condition is unacceptable, you have 60 days from the date the permit was issued, or the Notice of Decision to Grant a Permit was given, to apply for a review. Lodge an application for review of the conditions as soon as possible to reduce time taken for the VCAT review.

Refusal – If the council refuses the application, it is required to give clear and specific reasons for the decision.

Schools may seek a review of any condition that:

- limits the existing use, where the school has existing use rights, including imposing a student cap where no cap was required in the establishment of a school
- provides for services and facilities as well as works (on part of or abutting the subject land) through a S 173 Agreement
- provides for payment for facilities and services as well as works (on part of or abutting the subject land) in the absence of a clear nexus or in growth areas the absence of a development contribution plan
- limits co-location of community facilities that are clearly ancillary to the primary purpose of the school and is contrary to state government policy for co-location of a range of children’s and family services on school sites.

Amending a permit

After a permit is issued, a situation may arise that requires a change to the permit and approved plans. Instead of applying for a new permit, an amendment to the permit may be applied for. A request for an amendment to the permit follows the same process as a new application, including advertising and referral of the application.

Discuss the amendment to the permit with the council planner before submitting your application for an amendment to the permit.

Failure to decide the application

If the council has not made a decision about the application within 60 days, you can apply for a review to VCAT. The 60 days must be calculated in accordance with [Regulation 30 of the Planning and Environment Regulations 1998](#). A school can make the decision to accommodate delays or to proceed to VCAT.

When making this decision applicants should consider the likelihood of a third party appeal to the granting of the planning permit. If a neighbour is likely to appeal, the sooner the VCAT process commences the better.

There are a number of ways to appeal:

- A school can appeal in the absence of a council decision within the 60 days specified in the planning scheme.
- A school can object to any conditions of the permit or appeal against the refusal of the permit within 60 days of the date on the notice.
- An objector can appeal against a decision to issue a permit within 21 days of the date on the permit.

If the council has not requested further information, the 60 days is calculated from the date the application was lodged, excluding the time between the council's direction to give notice about the application and the giving of the last required notice.

If the council did request further information, the 60 days is calculated from the date when the information was provided excluding the time between the council's direction to give notice about the application and the giving of the last required notice.

In calculating the 60 days, the day the application was lodged is excluded and the last day is included. Weekends and public holidays are included in the 60 days. However, if the last day falls on a weekend or public holiday, the 60-day limit expires on the next working day.

If the 60-day limit is approaching, find out from the council planner what the recommendation is likely to be, when the decision will be made, and the reasons for any delay. Reviews against the failure to make a decision are relatively uncommon because the council is likely to make a decision before the hearing date at VCAT. However, if a refusal is recommended, it may save some time in the VCAT system if you have applied for a review under this provision. The appropriate action will depend on the particular circumstances. For more information about applications for review, see [Section 4 of Planning: a Short Guide](#), published by the Department of Planning and Community Development.

Legal advice should be obtained prior to proceeding to appeal. Procedures are specified in the VCAT Act 1998. General information about VCAT appeals is available online at the VCAT website. www.vcat.vic.gov.au

There are often significant delays and costs involved with the VCAT appeal process. Current VCAT statistics indicate that 80 per cent of cases are resolved within six months. If a school considers one or more conditions of a permit to be unfair, it can appeal to VCAT. Where the conditions will not affect the viability of the project, it is possible to commence works that are unaffected by the condition being appealed so as to avoid further delays.

Objector appeal

If objectors appeal, it is important to make the grounds for objection clear. If the grounds are unclear, a directions hearing may assist in addressing concerns. It is quite common for a range of experts to provide evidence. The evidence needs to be distributed 10 working days before the hearing. This process is usually managed by a solicitor. In many cases, VCAT will reserve the decision to give the matter full consideration. There is no fixed time for a decision.

The VCAT decision

The VCAT decision may include conditions that require the submission of amended plans or additional information. Sometimes the information is required prior to the commencement of construction. If the information is not approved by the council, the building surveyor cannot issue a building permit. If the information is required prior to the commencement of the use of the facility, the building surveyor cannot issue a statement of compliance. In this case, the building cannot be used until the statement of compliance is issued

Further information

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