

# Glossary

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## Delegation

A planning authority or responsible authority may delegate certain decision-making powers, discretions or functions under section 188 of the Planning and Environment Act 1987 to a committee or an officer of the authority. Essentially all permit decisions may be delegated to an officer or committee, including:

- deciding to advertise
- considering objections
- determining permit applications where there are nominal or no objections
- formulating permit conditions.

## Discretionary uses

Discretionary uses are those uses that require a planning permit under the planning scheme. A responsible authority is required to exercise discretion in determining if a planning permit should be granted or refused.

## Exercising discretion

Exercising discretion is acting according to one's own judgement. Responsible and planning authorities have wide discretionary powers under the Planning and Environment Act 1987. Discretion is most frequently exercised by responsible authorities in granting and refusing planning permits. State and local planning policies, zones and overlays guide the exercise of discretion over use and development in day-to-day decision-making.

## Natural justice

That justice which responds to fundamental logic and absolute fairness rather than to the laws of a particular place and time.

The legal concept of the minimum standard of fairness which has to be applied in the adjudication of disputes, requiring that both parties be granted a fair hearing and that there be no bias on the part of the adjudicator.

(Reference: the Macquarie Dictionary, Third Edition.)

## Overlays

The requirements of any overlays apply in addition to the requirements of the zone. Neither is more important than the other. As with the zones, standard overlays for Statewide application are included in the Victoria Planning Provisions (VPP). Each planning scheme includes only those overlays that are required to implement strategy. Generally, overlays apply to a single issue or related set of issues (such as heritage, environmental concern, flooding).

Where more than one issue applies to land, multiple overlays can be used. Overlays must have a strategic justification and be linked to the MSS and local planning policies. Many overlays have schedules to specify local objectives and requirements. Generally, overlays may only make requirements about development, not use. Overlays do not change the intent of the zone.

### **Planning authority**

A planning authority is defined by section 9 of the Planning and Environment Act 1987 as any person or body given the power under section 8 to prepare a planning scheme or an amendment to a planning scheme. A municipal council may prepare a planning scheme or an amendment to a planning scheme. The Minister is also the planning authority for land not incorporated into any municipality, such as the Alpine Resorts Planning Scheme, Port of Melbourne Planning Scheme, and the French Island and Sandstone Island Planning Scheme.

### **Planning permit**

A planning permit is a legal document that allows a certain use or development to occur on a particular parcel of land - usually subject to conditions. Council planners can provide advice on whether a planning permit is required and why. A planning permit ensures that:

- land uses are appropriately located
- buildings and land uses do not conflict with each other
- the character of an area is not detrimentally affected
- development will not detrimentally affect the environment
- places of heritage significance are not detrimentally altered or demolished.

A planning permit should not be confused with a building permit. A building permit is certification that a building or alteration to a building meets the minimum standard of construction specified in the Building Regulations 1994.

### **Planning scheme**

The Planning and Environment Act 1987 provides for a single instrument of planning control for any area - the planning scheme - which sets out policies and provisions for the use, development and protection of land. The planning scheme is a statutory document and each municipality in the State is covered by one.

### **Responsible authority**

A responsible authority is defined by section 13 of the Planning and Environment Act 1987 as the body responsible for the administration or enforcement of a planning scheme or a provision of a scheme. A responsible authority is responsible for considering and determining planning permit applications and for ensuring compliance with the scheme, permit conditions and agreements. The responsible authority is usually the municipal council. However, in the Melbourne Planning Scheme, the Minister for Planning is the responsible authority for land in a number of areas including the Melbourne Casino Area, Melbourne Docklands Area, Flemington Racecourse and the Royal Melbourne Showgrounds.

## **Schedules**

Schedules are a critical feature in planning schemes to reflect the needs and circumstances of individual municipalities. Together with the Local Planning Policy Framework (LPPF), schedules are the means of including local content in planning schemes. They can be used to supplement or 'fine-tune' the basic provisions of a state-standard clause, zone or overlay in a planning scheme, adapting it to local circumstances and locally defined objectives. This means that schedules are a key tool for implementing objectives and strategies in the Municipal Strategic Statement (MSS).

Schedules can only be included in a planning scheme where the VPP allow them. They must use the format shown in the Ministerial Direction on the Form and Content of Planning Schemes.

For more information on schedules refer to Planning Practice Note Writing Schedules (May 2000).

## **Statutory planning**

The basic instrument for statutory planning is a planning scheme, which consists of maps and an ordinance containing planning provisions. Statutory planning is often referred to as development control. It includes the preparation and implementation of planning provisions relating to the use and development of land.

## **Strategic planning**

Strategic planning is the research and formulation of policies or strategies to implement goals and objectives relating to particular land uses or areas. Strategic planning also involves monitoring and evaluating the implications of the provisions on land use and development.

## **Zones**

Standard zones for Statewide application are included in the VPP. These zones are used in all schemes as required. An important feature of the zones, which is reflected in the first purpose of each zone, is that they are to be administered to implement the state and local planning policy frameworks, including the MSS and local planning policies.

Each planning scheme includes only those zones required to implement its strategy. There is no ability to vary the zones or to introduce local zones. Additional zones can only be introduced by an amendment to the VPP. Some of the zones have schedules to provide for local circumstances, such as the Mixed Use Zone, Rural Zone and the Public Conservation and Resource Zone.