

In Planning Panels Victoria

Moyne Planning Scheme Amendment C69moyn

Supplementary Submission on behalf of Moyne Shire Council regarding the application of Neighbourhood Residential Zone and discharge of Ministerial Direction No. 1

1. The Panel has sought further information from the Council on two matters. These are:
 - 1.1. The proposed application of the Neighbourhood Residential Zone (**NRZ**) to all residential areas.
 - 1.2. The rezoning of industrial land to rural conservation land and consideration of Ministerial Direction 1.

Application of the NRZ

2. The Council addresses the Panel's inquiries about the NRZ first and refers to the section commencing at Paragraph 65 of the Part B submission.
3. The Panel has fairly posed the question about why the Council seeks a broad application of the neighbour residential zone across the municipality. As a subset of that question, it is asked 'what's the problem?'.
4. The Panel has had the benefit of having the matter heard in Port Fairy and will no doubt with familiar now with the compact and low-scale form of housing that exists across the township. It is this low-scale form of housing that the Council seeks to continue into the future. The principal driver for the application for NRZ is the desire to continue the 1 and 2 storey build form across the town. This extends to the growth area where absence on control on height development will eventuate into competition for views (or glimpses) of blue across the development that forces ever higher development.
5. If this is accepted, there are three means of achieving the goal of a 1 and 2 storey build form, albeit that the Structure Plan contemplates a General Residential Zone (**GRZ**) for Growth Area A.
6. The first methodology is the application of the GRZ and restricting the height through the Schedule to the GRZ. For reasons expressed by Mr Glossop in evidence, while it may be technically possible to use this utilizing the schedule of the GRZ, it is not an outcome that is likely to be endorsed through the Department.

7. A second approach would be through the application of the GRZ and the DDO. Council has accepted submissions that the application of the DDO to growth areas in particular is problematic. Pending drafting, the application of a DDO may trigger the need for planning permission in cases where the planning system need not necessarily intervene. Alternatively, a DDO could simply impose a requirement that height not exceed 2 storeys.
8. However, this mechanism results in a duplicity of controls where in Council's submission and premise of the evidence of Mr Glossop, 1 control will suffice. The relevant practice note is *Using the Residential Zones* dated December 2019.
9. A third option is the application of the NRZ. In Council's submission and premise of the evidence of Mr Glossop, the NRZ control produce an acceptable outcome.
10. The relevant Practice Note on the application of the residential zones is dated December 2019. The Panel will be taken to the document in detail, but it is submitted that the Practice Note 91 provides:

Dwelling density is no longer the basis for restricting development outcomes in the Neighbourhood Residential Zone.
11. The current Practice Note 91 has it genesis in the reformed residential zones that were implemented by Amendment VC110 and improved via Amendment VC143. Amendment VC110 relevantly removed the prohibition on the construction of more than two dwellings on lots in the NRZ. Amendment VC143, gazetted on 15 May 2018, relevantly clarified the operation of the garden area requirements in the GRZ and NRZ.

12. Furthermore, Council refers to the attached tabled which compares provisions of the NRZ and GRZ. This table illustrates that the permissible uses, subdivision, buildings and works requirements and garden area requirements are generally the same under both zones. The key difference relates to the maximum allowable building height and the purposes of the zone. The building height being the built form element Council seeks to manage to protect the valued 1-2 storey scale of Port Fairy.

Rezoning of industrial land to Rural Conversation Zone and Ministerial Direction No. 1

13. A requirement of Ministerial Direction No. 1 is that *“in preparing an amendment which would have the effect of allowing potentially contaminated land to be used for a sensitive use agriculture or public open space, a planning authority must satisfy itself the environmental conditions are suitable”* (paraphrased).¹
14. Potentially contaminated land within Ministerial Direction No. 1 means:
- “a) used or known to have been used for industry or mining;*
- b) used or known to have been used for the storage of chemicals, gas, waste or liquid fuel (other than minor above-ground storage that is ancillary to another use of the land);*
- or*
- c) where a known past or present activity or event (occurring on or off the land) may have caused contamination on the land.”*²
15. Accordingly, the threshold question is not what the zoning of the land is in the case of the land behind the SunPharma facility, but whether the land has been used for industry.
16. The Council holds no evidence this land has been used for the purpose of industry or that it meets any of the other requirements that define land as potentially contaminated. Accordingly, although the proposed zoning of the land that is subject of submission 58 and 58a permits sensitive uses in the absence of potentially contaminated land, Ministerial Direction 1 does not require further action.

¹ Refer to paragraph 5 of Ministerial Direction No. 1.

² Refer to paragraph 4 of Ministerial Direction No. 1.

9 September 2022

Greg Tobin
HARWOOD ANDERWS
on behalf of
Moyne Shire Council

Attachment 1: Comparison between NRZ and GRZ

The differences between the NRZ and GRZ are highlighted yellow.

Clause	General Residential Zone	Neighbourhood Residential Zone
Purpose	<p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To encourage development that respects the neighbourhood character of the area.</p> <p>To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>	<p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To recognise areas of predominantly single and double storey residential development.</p> <p>To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>
32.08-1/ 32.09-1 (Neighbourhood character objectives)	<p>Neighbourhood character objectives</p> <p>A schedule to this zone may contain neighbourhood character objectives to be achieved for the area.</p>	<p>Neighbourhood character objectives</p> <p>A schedule to this zone may contain neighbourhood character objectives to be achieved for the area.</p>

32.08-2/ 32.09-2
(Table of uses)

Section 1 - Permit not required	
Use	Condition
Bed and breakfast	No more than 10 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
Community care accommodation	Must meet the requirements of Clause 52.22-2.
Dependent person's unit	Must be the only dependent person's unit on the lot.
Domestic animal husbandry (other than Domestic animal boarding)	Must be no more than 2 animals.
Dwelling (other than Bed and breakfast)	
Home based business	
Informal outdoor recreation	
Medical centre	The gross floor area of all buildings must not exceed 250 square metres. Must not require a permit under Clause 52.06-3. The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.
Place of worship	The gross floor area of all buildings must not exceed 250 square metres. The site must adjoin, or have access to, a road in a Transport Zone 2 or a Transport Zone 3.
Racing dog husbandry	Must be no more than 2 animals.

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Clause	General Residential Zone		Neighbourhood Residential Zone	
	Railway		Racing dog husbandry	Must be no more than 2 animals.
	Residential aged care facility		Railway	
	Rooming house	Must meet the requirements of Clause 52.23-2.	Residential aged care facility	
	Tramway		Rooming house	Must meet the requirements of Clause 52.23-2.
	Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01.	Tramway	
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Clause	General Residential Zone	Neighbourhood Residential Zone																																																				
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	<div>Place of assembly (other than Amusement parlour, Carnival, Cinema based entertainment facility, Circus, Nightclub and Place of worship)</div> <div>Plant nursery</div> <div>Service station</div> <div>Store</div> <div>Take away food premises</div> <div>Utility installation (other than Minor utility installation and Telecommunications facility)</div> <div>Any other use not in Section 1 or 3</div>	<div>Place of assembly (other than Amusement parlour, Carnival, Cinema based entertainment facility, Circus, Nightclub and Place of worship)</div> <div>Plant nursery</div> <div>Service station</div> <div>Store</div> <div>Take away food premises</div> <div>Utility installation (other than Minor utility installation and Telecommunications facility)</div> <div>Any other use not in Section 1 or 3</div>

Clause	General Residential Zone	Neighbourhood Residential Zone
	<div data-bbox="416 226 1196 920"> <div>Section 3 – Prohibited</div> <div>Use</div> <div> Amusement parlour Animal production (other than Grazing animal production) Animal training Brothel Cinema based entertainment facility Domestic animal boarding Extractive industry Horse husbandry Industry (other than Car wash) Motor racing track Nightclub Office (other than Medical centre) Retail premises (other than Convenience shop, Food and drink premises, Market, and Plant nursery) Saleyard Transport terminal Warehouse (other than Store) </div> </div>	<div data-bbox="1223 226 2011 920"> <div>Section 3 – Prohibited</div> <div>Use</div> <div> Amusement parlour Animal production (other than Grazing animal production) Animal training Brothel Cinema based entertainment facility Domestic animal boarding Extractive industry Horse husbandry Industry (other than Car wash) Motor racing track Nightclub Office (other than Medical centre) Retail premises (other than Convenience shop, Food and drink premises, Market, and Plant nursery) Saleyard Transport terminal Warehouse (other than Store) </div> </div>

Clause

32.08-3/ 32.09-3

(Subdivision)

General Residential Zone

Subdivision

Permit requirement

A permit is required to subdivide land.

An application to subdivide land that would create a vacant lot less than 400 square metres capable of development for a dwelling or residential building, must ensure that each vacant lot created less than 400 square metres contains at least 25 percent as garden area. This does not apply to a lot created by an application to subdivide land where that lot is created in accordance with:

- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

An application to subdivide land, other than an application to subdivide land into lots each containing an existing dwelling or car parking space, must meet the requirements of Clause 56 and:

- Must meet all of the objectives included in the clauses specified in the following table.
- Should meet all of the standards included in the clauses specified in the following table.

Class of subdivision	Objectives and standards to be met
60 or more lots	All except Clause 56.03-5.
16 – 59 lots	All except Clauses 56.03-1 to 56.03-3, 56.03-5, 56.06-1 and 56.06-3.
3 – 15 lots	All except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6.
2 lots	Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2.

Neighbourhood Residential Zone

Subdivision

Permit requirement

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- An approved precinct structure plan or an equivalent strategic plan;
- An incorporated plan or approved development plan; or
- A permit for development.

A schedule to this zone may specify a minimum lot size to subdivide land. Each lot must be at least the area specified for the land, except where an application to subdivide land is made to create lots each containing an existing dwelling or car parking space, where an application for the existing dwelling or car parking space was made or approved before the approval date of the planning scheme amendment that introduced this clause 32.09 into the planning scheme.

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View table in full screen

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32.08-4/ 32.09-4 (Construction or extension of a dwelling or residential building)	<div><h3>Construction or extension of a dwelling or residential building</h3><h4>Minimum garden area requirement</h4><p>An application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area as set out in the following table:</p><table><thead><tr><th>Lot size</th><th>Minimum percentage of a lot set aside as garden area</th></tr></thead><tbody><tr><td>400 - 500 sqm</td><td>25%</td></tr><tr><td>Above 500 - 650 sqm</td><td>30%</td></tr><tr><td>Above 650 sqm</td><td>35%</td></tr></tbody></table><p>View table in full screen</p><p>This does not apply to:</p><ul style="list-style-type: none">■ An application to construct or extend a dwelling or residential building if specified in a schedule to this zone as exempt from the minimum garden area requirement.■ An application to construct or extend a dwelling or residential building on a lot if:<ul style="list-style-type: none">- The lot is designated as a medium density housing site in an approved precinct structure plan or an approved equivalent strategic plan;- The lot is designated as a medium density housing site in an incorporated plan or approved development plan; or■ An application to alter or extend an existing building that did not comply with the minimum garden area requirement of Clause 32.08-4 on the approval date of Amendment VC110.</div>	Lot size	Minimum percentage of a lot set aside as garden area	400 - 500 sqm	25%	Above 500 - 650 sqm	30%	Above 650 sqm	35%	<div><h3>Construction or extension of a dwelling or residential building</h3><h4>Minimum garden area requirement</h4><p>An application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area as set out in the following table:</p><table><thead><tr><th>Lot size</th><th>Minimum percentage of a lot set aside as garden area</th></tr></thead><tbody><tr><td>400 - 500 sqm</td><td>25%</td></tr><tr><td>Above 500 - 650 sqm</td><td>30%</td></tr><tr><td>Above 650 sqm</td><td>35%</td></tr></tbody></table><p>View table in full screen</p><p>This does not apply to:</p><ul style="list-style-type: none">■ An application to construct or extend a dwelling or residential building on a lot if:<ul style="list-style-type: none">- The lot is designated as a medium density housing site in an approved precinct structure plan or an approved equivalent strategic plan;- The lot is designated as a medium density housing site in an incorporated plan or approved development plan; or■ An application to alter or extend an existing building that did not comply with the minimum garden area requirement of Clause 32.09-4 on the approval date of Amendment VC110.</div>	Lot size	Minimum percentage of a lot set aside as garden area	400 - 500 sqm	25%	Above 500 - 650 sqm	30%	Above 650 sqm	35%
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Above 650 sqm	35%																	

Clause

32.08-5/ 32.09-5
(Construction and extension of one dwelling on a lot)

General Residential Zone

Construction and extension of one dwelling on a lot

Permit requirement

A permit is required to construct or extend one dwelling on:

- A lot of less than 300 square metres.
- A lot of between 300 square metres and 500 square metres if specified in a schedule to this zone.

A permit is required to construct or extend a front fence within 3 metres of a street if:

- The fence is associated with one dwelling on:
 - A lot of less than 300 square metres, or
 - A lot of between 300 and 500 square metres if specified in a schedule to this zone, and
- The fence exceeds the maximum height specified in Clause 54.06-2.

A development must meet the requirements of Clause 54.

No permit required

No permit is required to:

- Construct or carry out works normal to a dwelling.
- Construct or extend an out-building (other than a garage or carport) on a lot provided the gross floor area of the out-building does not exceed 10 square metres and the maximum building height is not more than 3 metres above ground level.
- Make structural changes to a dwelling provided the size of the dwelling is not increased or the number of dwellings is not increased.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct an outbuilding or extend a dwelling if the development: <ul style="list-style-type: none">Meets the minimum garden area requirement of Clause 32.08-4.Does not exceed a building height of 5 metres.Is not visible from the street (other than a lane) or a public park.Meets the requirements in the following standards of Clause 54:<ul style="list-style-type: none">A50 Side and rear setbacks.A51 Walls on boundaries.A52 Daylight to existing windows.A53 North-facing windows.A54 Overshadowing open space.A55 Overlooking. For the purposes of this class of VicSmart application, the Clause 54 standards specified above are mandatory. If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 54 standard, the requirement in the schedule to the zone applies and must be met.	Clause 59.14
Construct or extend a front fence within 3 metres of a street if the fence is associated with one dwelling.	Clause 59.03

View table in full screen

Neighbourhood Residential Zone

Construction and extension of one dwelling on a lot

Permit requirement

A permit is required to construct or extend one dwelling on:

- A lot of less than 300 square metres.
- A lot of less than the lot size specified in a schedule to this zone.

A permit is required to construct or extend a front fence within 3 metres of a street if:

- The fence is associated with one dwelling on:
 - A lot of less than 300 square metres, or
 - A lot of less than the lot size specified in a schedule to this zone, and
- The fence exceeds the maximum height specified in Clause 54.06-2.

A development must meet the requirements of Clause 54.

No permit required

No permit is required to:

- Construct or carry out works normal to a dwelling.
- Construct or extend an out-building (other than a garage or carport) on a lot provided the gross floor area of the out-building does not exceed 10 square metres and the maximum building height is not more than 3 metres above ground level.
- Make structural changes to a dwelling provided the size of the dwelling is not increased or the number of dwellings is not increased.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
Construct an outbuilding or extend a dwelling if the development: <ul style="list-style-type: none">Meets the minimum garden area requirement of Clause 32.09-4.Does not exceed a building height of 5 metres.Is not visible from the street (other than a lane) or a public park.Meets the requirements in the following standards of Clause 54:<ul style="list-style-type: none">A50 Side and rear setbacks.A51 Walls on boundaries.A52 Daylight to existing windows.A53 North-facing windows.A54 Overshadowing open space.A55 Overlooking. For the purposes of this class of VicSmart application, the Clause 54 standards specified above are mandatory. If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 54 standard, the requirement in the schedule to the zone applies and must be met.	Clause 59.14
Construct or extend a front fence within 3 metres of a street if the fence is associated with one dwelling.	Clause 59.03

View table in full screen

Clause	General Residential Zone	Neighbourhood Residential Zone							
32.08-6/32.09-6 (Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings)	Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings	Construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings							
	Permit requirement	Permit requirement							
	A permit is required to: <ul style="list-style-type: none">Construct a dwelling if there is at least one dwelling existing on the lot.Construct two or more dwellings on a lot.Extend a dwelling if there are two or more dwellings on the lot.Construct or extend a dwelling if it is on common property.Construct or extend a residential building.	A permit is required to: <ul style="list-style-type: none">Construct a dwelling if there is at least one dwelling existing on the lot.Construct two or more dwellings on a lot.Extend a dwelling if there are two or more dwellings on the lot.Construct or extend a dwelling if it is on common property.Construct or extend a residential building.							
	A permit is required to construct or extend a front fence within 3 metres of a street if: <ul style="list-style-type: none">The fence is associated with 2 or more dwellings on a lot or a residential building, andThe fence exceeds the maximum height specified in Clause 55.06-2.	A permit is required to construct or extend a front fence within 3 metres of a street if: <ul style="list-style-type: none">The fence is associated with 2 or more dwellings on a lot or a residential building, andThe fence exceeds the maximum height specified in Clause 55.06-2.							
	A development must meet the requirements of Clause 55. This does not apply to a development of five or more stories, excluding a basement.	A development must meet the requirements of Clause 55.							
	An apartment development of five or more stories, excluding a basement, must meet the requirements of Clause 58.	A permit is not required to construct one dependent person's unit on a lot.							
	A permit is not required to construct one dependent person's unit on a lot.								
	VicSmart applications	VicSmart applications							
	Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.	Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.							
	<table><tr><th>Class of application</th><th>Information requirements and decision guidelines</th></tr><tr><td>Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.</td><td>Clause 59.03</td></tr></table> <p>View table in full screen</p>	Class of application	Information requirements and decision guidelines	Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.	Clause 59.03	<table><tr><th>Class of application</th><th>Information requirements and decision guidelines</th></tr><tr><td>Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.</td><td>Clause 59.03</td></tr></table> <p>View table in full screen</p>	Class of application	Information requirements and decision guidelines	Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.
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Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.	Clause 59.03								
Class of application	Information requirements and decision guidelines								
Construct or extend a front fence within 3 metres of a street if the fence is associated with 2 or more dwellings on a lot or a residential building.	Clause 59.03								
Transitional provisions	Transitional provisions								
Clause 55 of this scheme, as in force immediately before the approval date of Amendment VC196, continues to apply to: <ul style="list-style-type: none">An application for a planning permit lodged before that date.An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before that date.	Clause 55 of this scheme, as in force immediately before the approval date of Amendment VC196, continues to apply to: <ul style="list-style-type: none">An application for a planning permit lodged before that date.An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before that date.								
Clause 58 does not apply to: <ul style="list-style-type: none">An application for a planning permit lodged before the approval date of Amendment VC196.An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before the approval date of Amendment VC196.	Clause 55 of this scheme, as in force immediately before the approval date of Amendment VC194, continues to apply to: <ul style="list-style-type: none">An application for a planning permit lodged before that date.An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before that date.								
Clauses 55 and 58 of this scheme, as in force immediately before the approval date of Amendment VC194, continue to apply to: <ul style="list-style-type: none">An application for a planning permit lodged before that date.An application for an amendment of a permit under section 72 of the Act, if the original permit application was lodged before that date.									

Clause

32.08-7/ 32.09-7
(Requirements of Clause 54 and Clause 55)

32.08-8/32.09-8
(Residential aged care facility)

32.08-9/32.09-9
(Buildings and works associated with a Section 2 use)

General Residential Zone

Requirements of Clause 54 and Clause 55

A schedule to this zone may specify the requirements of:

- Standards A3, A5, A6, A8, A11, A17 and A20 of Clause 54 of this scheme.
- Standards B6, B8, B9, B12, B16, B28 and B32 of Clause 55 of this scheme.

If a requirement is not specified in a schedule to this zone, the requirement set out in the relevant standard of Clause 54 or Clause 55 applies.

Residential aged care facility

Permit requirements

A permit is required to construct a building or construct or carry out works for a residential aged care facility.

A development must meet the requirements of Clause 53.7 - Residential aged care facility.

Buildings and works associated with a Section 2 use

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
<p>Construct a building or construct or carry out works where:</p> <ul style="list-style-type: none">The building or works are not associated with a dwelling, primary school or secondary school and have an estimated cost of up to \$100,000; orThe building or works are associated with a primary school or secondary school and have an estimated cost of up to \$500,000; andThe requirements in the following standards of Clause 54 are met, where the land adjoins land in a residential zone used for residential purposes: <ul style="list-style-type: none">A10 Side and rear setbacks.A11 Walls on boundaries.A12 Daylight to existing windows.A13 North-facing windows.A14 Overhanging open space.A15 Overlooking. <p>For the purposes of this class of VicSmart application, the Clause 54 standards specified above are mandatory.</p> <p>If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 54 standard, the requirement in the schedule to the zone applies and must be met.</p> <p>View table in full screen</p>	<p>Clause 59.04</p>

Neighbourhood Residential Zone

Requirements of Clause 54 and Clause 55

A schedule to this zone may specify the requirements of:

- Standards A3, A5, A6, A8, A11, A17 and A20 of Clause 54 of this scheme.
- Standards B6, B8, B9, B12, B16, B28 and B32 of Clause 55 of this scheme.

If a requirement is not specified in a schedule to this zone, the requirement set out in the relevant standard of Clause 54 or Clause 55 applies.

Residential aged care facility

Permit requirements

A permit is required to construct a building or construct or carry out works for a residential aged care facility.

A development must meet the requirements of Clause 53.7 - Residential aged care facility.

Buildings and works associated with a Section 2 use

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.09-2.

VicSmart applications

Subject to Clause 71.06, an application under this clause for a development specified in Column 1 is a class of VicSmart application and must be assessed against the provision specified in Column 2.

Class of application	Information requirements and decision guidelines
<p>Construct a building or construct or carry out works where:</p> <ul style="list-style-type: none">The building or works are not associated with a dwelling, primary school or secondary school and have an estimated cost of up to \$100,000; orThe building or works are associated with a primary school or secondary school and have an estimated cost of up to \$500,000; andThe requirements in the following standards of Clause 54 are met, where the land adjoins land in a residential zone used for residential purposes: <ul style="list-style-type: none">A10 Side and rear setbacks.A11 Walls on boundaries.A12 Daylight to existing windows.A13 North-facing windows.A14 Overhanging open space.A15 Overlooking. <p>For the purposes of this class of VicSmart application, the Clause 54 standards specified above are mandatory.</p> <p>If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 54 standard, the requirement in the schedule to the zone applies and must be met.</p>	<p>Clause 59.04</p>

Clause	General Residential Zone	Neighbourhood Residential Zone
32.08-10/32.09-10 (Maximum building height requirement for a dwelling or residential building) 32.08-11/ 32.09-11 (Application requirements)	<p>Maximum building height requirement for a dwelling or residential building</p> <p>A building must not be constructed for use as a dwelling or a residential building that:</p> <ul style="list-style-type: none"> exceeds the maximum building height specified in a schedule to this zone; or contains more than the maximum number of storeys specified in a schedule to this zone. <p>If no maximum building height or maximum number of storeys is specified in a schedule to this zone:</p> <ul style="list-style-type: none"> the building height must not exceed 9 metres; and the building must contain no more than 3 storeys at any point. <p>A building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if:</p> <ul style="list-style-type: none"> it replaces an immediately pre-existing building and the new building does not exceed the building height or contain a greater number of storeys than the pre-existing building; there are existing buildings on both abutting allotments that face the same street and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments; it is a corner lot abutted by lots with existing buildings and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments; it is constructed pursuant to a valid building permit that was in effect prior to the introduction of this provision. <p>An extension to an existing building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if it does not exceed the building height of the existing building or contain a greater number of storeys than the existing building.</p> <p>A building may exceed the maximum building height by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees.</p> <p>A basement is not a storey for the purposes of calculating the number of storeys contained in a building.</p> <p>The maximum building height and maximum number of storeys requirements in this zone or a schedule to this zone apply whether or not a planning permit is required for the construction of a building.</p> <p>Building height if land is subject to inundation</p> <p>If the land is in a Special Building Overlay, Land Subject to Inundation Overlay, or is land liable to inundation the maximum building height specified in the zone or schedule to the zone is the vertical distance from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.</p> <p>Application requirements</p> <p>An application must be accompanied by the following information, as appropriate:</p> <ul style="list-style-type: none"> For a residential development of four storeys or less, the neighbourhood and site description and design response as required in Clause 54 and Clause 55; For an apartment development of five or more storeys, an urban context report and design response as required in Clause 58(1); For an application for subdivision, a site and context description and design response as required in Clause 56; <p>Plans drawn to scale and dimensioned which show:</p> <ul style="list-style-type: none"> Site shape, size, dimensions and orientation; The siting and use of existing and proposed buildings; Adjacent buildings and uses; The building form and scale; Setbacks to property boundaries; <ul style="list-style-type: none"> The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and dispatch of goods and materials, hours of operation and light spill, solar access and glare; Any other application requirements specified in a schedule to this zone. <p>If in the opinion of the responsible authority an application requirement is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.</p>	<p>Maximum building height requirement for a dwelling or residential building</p> <p>A building must not be constructed for use as a dwelling or a residential building that:</p> <ul style="list-style-type: none"> exceeds the maximum building height specified in a schedule to this zone; or contains more than the maximum number of storeys specified in a schedule to this zone. <p>If no maximum building height or maximum number of storeys is specified in a schedule to this zone:</p> <ul style="list-style-type: none"> the building height must not exceed 9 metres; and the building must contain no more than 2 storeys at any point. <p>A building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if:</p> <ul style="list-style-type: none"> it replaces an immediately pre-existing building and the new building does not exceed the building height or contain a greater number of storeys than the pre-existing building; there are existing buildings on both abutting allotments that face the same street and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments; it is on a corner lot abutted by lots with existing buildings and the new building does not exceed the building height or contain a greater number of storeys than the lower of the existing buildings on the abutting allotments; it is constructed pursuant to a valid building permit that was in effect prior to the introduction of this provision. <p>An extension to an existing building may exceed the applicable maximum building height or contain more than the applicable maximum number of storeys if it does not exceed the building height of the existing building or contain a greater number of storeys than the existing building.</p> <p>A building may exceed the maximum building height by up to 1 metre if the slope of the natural ground level, measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees.</p> <p>A basement is not a storey for the purposes of calculating the number of storeys contained in a building.</p> <p>The maximum building height and maximum number of storeys requirements in this zone or a schedule to this zone apply whether or not a planning permit is required for the construction of a building.</p> <p>Building height if land is subject to inundation</p> <p>If the land is in a Special Building Overlay, Land Subject to Inundation Overlay, or is land liable to inundation the maximum building height specified in the zone or schedule to the zone is the vertical distance from the minimum floor level determined by the relevant drainage authority or floodplain management authority to the roof or parapet at any point.</p> <p>Application requirements</p> <p>An application must be accompanied by the following information, as appropriate:</p> <ul style="list-style-type: none"> For a residential development, the neighbourhood and site description and design response as required in Clause 54 and Clause 55; For an application for subdivision, a site and context description and design response as required in Clause 56; <p>Plans drawn to scale and dimensioned which show:</p> <ul style="list-style-type: none"> Site shape, size, dimensions and orientation; The siting and use of existing and proposed buildings; Adjacent buildings and uses, including siting and dimensioned setbacks; The building form and scale; Setbacks to property boundaries; <ul style="list-style-type: none"> The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and dispatch of goods and materials, hours of operation and light spill, solar access and glare; Any other application requirements specified in a schedule to this zone. <p>If in the opinion of the responsible authority an application requirement is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.</p>
	<p>Back</p>	

Clause	General Residential Zone	Neighbourhood Residential Zone
32.08-12/32.09-12 (Exemption from notice and review) 32.08-13/ 32.09-13 (Decision guidelines)	<p>Exemption from notice and review</p> <p>Subdivision</p> <p>An application to subdivide land into lots each containing an existing dwelling or car parking space is exempt from the notice requirements of section 52(5a), (b) and (c), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(3) of the Act.</p> <p>Decision guidelines</p> <p>Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</p> <p>General</p> <ul style="list-style-type: none"> • The Municipal Planning Strategy and the Planning Policy Framework. • The purpose of this zone. • The objectives set out in a schedule to this zone. • Any other decision guidelines specified in a schedule to this zone. • The impact of overshadowing an existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone. <p>Subdivision</p> <ul style="list-style-type: none"> • The pattern of subdivision and its effect on the spacing of buildings. • For subdivision of land for residential development, the objectives and standards of Clause 56. <p>Dwellings and residential buildings</p> <ul style="list-style-type: none"> • For the construction and extension of one dwelling on a lot, the objectives, standards and decision guidelines of Clause 54. • For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. This does not apply to an apartment development of five or more storeys, including a basement. • For the construction and extension of an apartment development of five or more storeys, including a basement, the objectives, standards and decision guidelines of Clause 56. <p>Non-residential use and development</p> <ul style="list-style-type: none"> • Whether the use or development is compatible with residential use. • Whether the use generally serves local community needs. • The scale and intensity of the use and development. • The design, height, setback and appearance of the proposed buildings and works. • The proposed landscaping. • The provision of car and bicycle parking and associated accessways. • Any proposed loading and refuse collection facilities. • The safety, efficiency and amenity effects of traffic to be generated by the proposal. 	<p>Exemption from notice and review</p> <p>Subdivision</p> <p>An application to subdivide land into lots each containing an existing dwelling or car parking space is exempt from the notice requirements of section 52(5a), (b) and (c), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(3) of the Act.</p> <p>Decision guidelines</p> <p>Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</p> <p>General</p> <ul style="list-style-type: none"> • The Municipal Planning Strategy and the Planning Policy Framework. • The purpose of this zone. • The objectives set out in the schedule to this zone. • Any other decision guidelines specified in a schedule to this zone. • The impact of overshadowing an existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone. <p>Subdivision</p> <ul style="list-style-type: none"> • The pattern of subdivision and its effect on the spacing of buildings. • For subdivision of land for residential development, the objectives and standards of Clause 56. <p>Dwellings and residential buildings</p> <ul style="list-style-type: none"> • For the construction and extension of one dwelling on a lot, the objectives, standards and decision guidelines of Clause 54. • For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. <p>Non-residential use and development</p> <p>In the local neighbourhood context:</p> <ul style="list-style-type: none"> • Whether the use or development is compatible with residential use. • Whether the use generally serves local community needs. • The scale and intensity of the use and development. • The design, height, setback and appearance of the proposed buildings and works. • The proposed landscaping. • The provision of car and bicycle parking and associated accessways. • Any proposed loading and refuse collection facilities. • The safety, efficiency and amenity effects of traffic to be generated by the proposal.
32.08-14/32.9-14 (Signs) 32.08-15/32.09-15 (Transitional provisions)	<p>Signs</p> <p>Sign requirements are at Clause 52.05. This zone is in Category 3.</p> <p>Transitional provisions</p> <p>The minimum garden area requirements of Clause 52.08-4 and the maximum building height and number of storeys requirements of Clause 52.09-9 introduced by Amendment VC190 do not apply to:</p> <ul style="list-style-type: none"> • A planning permit application for the construction or extension of a dwelling or residential building lodged before the approval date of Amendment VC190. • Where a planning permit is not required for the construction or extension of a dwelling or residential building: <ul style="list-style-type: none"> - A building permit issued for the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. - A building surveyor has been appointed to issue a building permit for the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. A building permit must be issued within 12 months of the approval date of Amendment VC190. - A building surveyor is satisfied, and certifies in writing, that substantial progress was made on the design of the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. A building permit must be issued within 12 months of the approval date of Amendment VC190. <p>The minimum garden area requirement of Clause 52.08-3 introduced by Amendment VC190 does not apply to a planning permit application to subdivide land for a dwelling or a residential building lodged before the approval date of Amendment VC190.</p>	<p>Signs</p> <p>Sign requirements are at Clause 52.05. This zone is in Category 3.</p> <p>Transitional provisions</p> <p>The minimum garden area requirements of Clause 52.09-4 and the maximum building height and number of storeys requirements of Clause 52.09-9 introduced by Amendment VC190 do not apply to:</p> <ul style="list-style-type: none"> • A planning permit application for the construction or extension of a dwelling or residential building lodged before the approval date of Amendment VC190. • Where a planning permit is not required for the construction or extension of a dwelling or residential building: <ul style="list-style-type: none"> - A building permit issued for the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. - A building surveyor has been appointed to issue a building permit for the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. A building permit must be issued within 12 months of the approval date of Amendment VC190. - A building surveyor is satisfied, and certifies in writing, that substantial progress was made on the design of the construction or extension of a dwelling or residential building before the approval date of Amendment VC190. A building permit must be issued within 12 months of the approval date of Amendment VC190. <p>The minimum garden area requirement of Clause 52.09-3 introduced by Amendment VC190 does not apply to a planning permit application to subdivide land for a dwelling or a residential building lodged before the approval date of Amendment VC190.</p>