

44.03 FLOODWAY OVERLAY

Shown on the planning scheme map as **FO** or **RFO** with a number (if shown).

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.

To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.

To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if such have been made.

To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

44.03-1 Buildings and works

A permit is required to construct a building or to construct or carry out works, including a fence and roadworks.

This does not apply:

- If a schedule to this overlay specifically states that a permit is not required.
- To flood mitigation works carried out by the responsible authority or floodplain management authority.
- To the following works in accordance with plans prepared to the satisfaction of the responsible authority:
 - The laying of underground sewerage, water and gas mains, oil pipelines, underground telephone lines and underground power lines provided they do not alter the topography of the land.
 - The erection of telephone or power lines provided they do not involve the construction of towers or poles.
- To post and wire and post and rail fencing.

44.03-2 Subdivision

A permit is required to subdivide land.

Unless a local floodplain development plan specifically provides otherwise:

- Land may only be subdivided to realign the boundaries of existing lots provided the number of lots is not increased.
- No new lot may be created which is entirely within this overlay, except to create a lot which by agreement between the owner and the relevant floodplain management authority is to be transferred to that authority for a public purpose.
- If the land is partly within this overlay, at least 75 percent of the area of each lot created must be outside this overlay.

44.03-3 Application requirements

Local floodplain development plan

If a local floodplain development plan has been developed for the area in accordance with best practice principles and has been adopted by the responsible authority in consultation with the floodplain management authority, an application must be consistent with the plan.

Flood risk report

If a local floodplain development plan has not been adopted, an application must be accompanied by a flood risk report to the satisfaction of the responsible authority which must consider the following, where applicable:

The State Planning Policy Framework and the Local Planning Policy Framework,

- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development.
Flood risk factors to consider include:
 - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
 - The flood warning time available.
 - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effects of the development on environmental values such as natural habitat, stream stability, erosion, water quality and sites of scientific significance.

44.03-4 Referral of applications

An application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.

44.03-5 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.

Notes:

Refer to the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for strategies and policies which may affect the use and development of land.

Check the requirements of the zone which applies to the land.

Other requirements may also apply. These can be found at Particular Provisions.