

51.06

27/08/2020
VC186

SECONDARY DWELLING

Purpose

To facilitate the development of one additional small dwelling on the same lot as an existing dwelling, in specified residential areas.

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Application

This clause applies to land in the following planning schemes:

- Greater Bendigo
- Kingston
- Moreland
- Murrindindi

provided the land is in a Mixed Use Zone, a Township Zone, a Residential Growth Zone, a General Residential Zone or a Neighbourhood Residential Zone.

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Operation and permit requirements

Permit requirement

A permit may be granted under this clause to construct or extend a dwelling on the same lot as an existing dwelling provided the requirements of Clause 51.06-3 are met. The dwelling may be attached to or detached from the existing dwelling.

If an application is made under this clause and the dwelling meets the requirements of Clause 51.06-3, the provisions of Clause 32.04-6, Clause 32.05-7, Clause 32.07-5, Clause 32.08-6 and Clause 32.09-6 do not apply.

Unless specified otherwise in this clause, the provisions of Clause 55 do not apply to an application under this clause.

An application under this clause is exempt from the car parking requirements at Clause 52.06-1.

The provisions of this clause prevail over any inconsistent provision in this planning scheme.

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 or extend a dwelling on the same lot as an existing dwelling if:	Clause 51.06-5
<ul style="list-style-type: none"> ▪ The requirements of Clause 51.06-3 are met. 	Clause 51.06-6
<ul style="list-style-type: none"> ▪ The dwelling is not located on a lot boundary or closer to a street (other than a rear lane) than the existing dwelling. 	Clause 51.06-7
<ul style="list-style-type: none"> ▪ The numerical requirements in the following standards of Clause 55 are met: <ul style="list-style-type: none"> - B8 Site coverage. - B9 Permeability and stormwater management. - B17 Side and rear setbacks. 	

Class of application

**Information requirements
and decision guidelines**

- B19 Daylight to existing windows.
- B20 North-facing windows.
- B21 Overshadowing open space.
- B22 Overlooking.
- B27 Daylight to new windows.
- B29 Solar access to open space.

If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 55 standards, the requirement in the schedule to the zone applies.

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Requirements to be met

A permit may only be granted under this clause to construct or extend a dwelling on the same lot as an existing dwelling if all of the following requirements are met:

- Must be located on the same lot as an existing dwelling.
- Must be the only dwelling on the lot approved under this clause.
- Must not exceed a gross floor area of 60 square metres.
- Must not exceed a building height of 5 metres.
- Must not contain more than one storey at any point. A basement is not a storey for the purposes of calculating the number of storeys contained in a dwelling approved under this clause.
- Where provided, any garden area requirement in the zone must be met.
- Must not be located on a lot that contains a dependent person’s unit.
- There must be no more than two dwellings on the lot as a result of the development.
- The number of car parking spaces on the land associated with the existing dwelling must not be reduced below the applicable requirement in Table 1 to Clause 52.06 as a result of the development.

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Subdivision of land and mandatory condition

A permit must not be granted to create a lot that contains only a dwelling that has been constructed under a permit granted under this clause.

A permit granted under this clause for the construction of a dwelling must include the following condition:

“Before the development starts, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide for the following:

- *The dwelling constructed under this permit must remain on the same lot as the existing dwelling.*
- *Subdivision of the land that would result in the dwelling constructed under this permit no longer remaining on the same lot as an existing dwelling is prohibited.*
- *The ending of the agreement if the dwelling is removed from the land or a permit is granted for the construction of the dwelling under another provision of the planning scheme.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”

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An application under this clause must be accompanied by the following information, as appropriate:

- A copy of title for the subject land and a copy of any registered restrictive covenant.
- A site plan, drawn to scale and fully dimensioned showing:
 - Site shape, size, orientation and easements.
 - Levels of the site and the difference in levels between the site and surrounding properties.
 - The location of secluded private open space and habitable room windows of adjoining properties which have an outlook to the site within 9 metres.
 - Solar access to the site and adjacent properties.
 - Existing landscape and open space areas.
 - The location of significant trees existing on the site and any significant trees removed from the site in the 12 months prior to the application being made, where known.
 - Street frontage features such as poles, street trees and kerb crossovers.
 - Any other notable features or characteristics of the site.
 - Location of existing buildings on the site and on surrounding properties, including the location and height of walls built to the boundary of the site.
 - The location of existing driveways, crossovers and car parking.
 - The use of surrounding buildings.
 - Any contaminated soils and filled areas, where known.
 - Adjoining roads.
- A site and layout plan, drawn to scale and fully dimensioned showing:
 - Site shape, size, orientation and any easements.
 - The location of existing buildings to be retained.
 - The location and use of buildings and works on adjoining land.
 - The location and layout of all proposed buildings, including finished floor levels and setbacks.
 - Location of proposed driveways and crossovers.
 - Proposed landscape and open space areas.
 - All external storage, waste areas and services.
 - Shadow diagrams showing existing and proposed shadows.
- An elevation plan, drawn to scale showing the height, colour and materials of the proposed dwelling or extension.
- For land in an overlay, a written description of how the proposal responds to the objectives and requirements specified in a schedule to the overlay.
- A written statement, plan or diagram demonstrating how the proposal meets:
 - The requirements and objectives of the Clause 55 standards referred to in Clause 51.06-8.

If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 55 standards, the requirement in the schedule to the zone applies.

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VicSmart information requirements

In addition to the requirements of Clause 51.06-5, a VicSmart application must be accompanied by the following information as appropriate:

- A written statement, plan or diagram demonstrating how the proposal meets:
 - The application requirements of this clause.
 - The garden area requirement specified in the zone.
 - Any particular requirements for dwellings in the applicable zone.
 - The standards of Clause 55 referred to in Clause 51.06-2.

If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 55 standards, the requirement in the schedule to the zone applies.

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VicSmart decision guidelines

In assessing a VicSmart application the responsible authority must consider as appropriate:

- How the proposed development responds to the site and context description.
- The effect of overshadowing on an appropriately located existing rooftop solar energy facility on an adjoining lot.
- The functionality of private open space for the existing dwelling.
- Whether there is sufficient space for the replacement of significant trees that have been removed in the 12 months prior to the application being made.
- The impact of any changes to cross overs on the streetscape and neighbourhood character and its impact on the provision of on street car parking.
- The extent to which pedestrian access to the dwelling is secure and easily identifiable.
- The acceptability of proposed materials.
- Whether the proposed development complies with the following standards of Clause 55:
 - B8 Site coverage.
 - B9 Permeability and stormwater management.
 - B17 Side and rear setbacks.
 - B19 Daylight to existing windows.
 - B20 North-facing windows.
 - B21 Overshadowing open space.
 - B22 Overlooking.
 - B27 Daylight to new windows.
 - B29 solar access to open space.
- The following objectives, standards and decision guidelines of Clause 55:
 - B4 Infrastructure.
 - B6 Street setback.
 - B10 Energy efficiency.

If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 55 standards, the requirement in the schedule to the zone applies.

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone or overlay.
- How the proposed development responds to the site and context description.
- The effect of overshadowing on an appropriately located existing rooftop solar energy facility on an adjoining lot.
- The functionality of private open space for the existing dwelling.
- Whether there is sufficient space for the replacement of significant trees that have been removed in the 12 months prior to the application being made.
- The impact of any changes to cross overs on the streetscape and neighbourhood character and its impact on the provision of on street car parking.
- The extent to which pedestrian access to the dwelling is secure and easily identifiable.
- The acceptability of proposed materials.
- The following objectives, standards and decision guidelines of Clause 55:
 - B4 Infrastructure.
 - B6 Street setback
 - B8 Site coverage.
 - B9 Permeability and stormwater management.
 - B10 Energy efficiency
 - B17 Side and rear setbacks.
 - B18 Walls on boundaries.
 - B19 Daylight to existing windows.
 - B20 North-facing windows.
 - B21 Overshadowing open space.
 - B22 Overlooking.
 - B27 Daylight to new windows.
 - B29 solar access to open space.

If a schedule to the zone specifies a requirement of a standard different from a requirement set out in the Clause 55 standards, the requirement in the schedule to the zone applies.