

What is meant by ‘use of land’

‘Use of land’ refers to the purpose for which land is used – such as for a dwelling, shop, office, or place of assembly.

It focuses on the activity or function carried out on the land and does not necessarily involve any physical development. For example, living in a house is a use of land as a ‘dwelling’, providing beauty services is a ‘shop’, while operating a fast food restaurant is a ‘convenience restaurant’.

[Clause 73.03 \(Land Use Terms\)](#) of the Cardinia Planning Scheme outlines the relevant terms and definitions which may be used to define an activity, or function that you wish to carry out on your land.

Do I need a planning permit to use the land?

Whether a planning permit is required for a particular use of land will depend on the Zone of the land and any Overlays or other controls that apply under the Cardinia Planning Scheme. Some uses are permitted, others require a planning permit and some are prohibited.

Understanding the correct land use term is essential when determining whether a planning permit is required or preparing a planning permit application.

Check the Zones and Overlays that apply to your land via [VicPlan](#).

Restrictive Covenants and Section 173 Agreements

Many parcels of land within Cardinia Shire are affected by Restrictive Covenants or Section 173 Agreements. These documents are registered on the title of the land, and many restrict or prohibit certain types of land use or development.

In most circumstances, Council cannot issue a planning permit if the proposal would breach or be inconsistent with a restrictive covenant or Section 173 Agreement.

Council does not have copies of these documents and cannot provide them. They can be obtained from the [Landata \(Titles Office\) website](#).

Building Permits

A building permit is a separate, usually subsequent document to a planning permit. In many circumstances, a building permit is required to change the use of a building – whether or not a planning permit is required.

Council does not issue building permits.

For more information regarding building permits, contact Council’s Building Department (for general advice) or a Registered Building Surveyor (to obtain a building permit).

Frequently Asked Questions

1. What do I need to provide with an application for a planning permit?

Please refer to information requirements and checklist below.

2. What application fee applies to an application for a planning permit for the use of land?

A Class 1 fee applies to applications for the use of land.

Other fees apply if you require multiple permissions, such as permission for the use of land and permission to display a sign.

For more information regarding planning fees, visit our [website](#) or contact Council's Statutory Planning team for further advice.

3. Do I need to supply car parking or other facilities?

In most cases, commencing a new use of land will require you to provide car parking and bicycle facilities in accordance with the Cardinia Planning Scheme.

For example, car parking must be provided in accordance with Clause 52.06 (Car Parking) and bicycle facilities in accordance with Clause 52.34 (Bicycle Facilities).

If you cannot meet the car parking or bicycle facility requirements, you may need to apply for a planning permit to reduce or waive them (in addition to any permit requirement for the use itself).

4. What other permits might I need??

In addition to a planning permit, your business may require permits from other Council departments or external authorities, including (but not limited to):

- Food Premises – Council's Environmental Health team is responsible for registration of all food businesses as a separate process. If your application involves a food business, please contact them directly on 1300 787 624 or search for 'Register a Food Business' on Council's website.
- Footpath Trading – Council's Compliance team is responsible for footpath trading. If your application involves the use of public footpaths for commercial purposes, please contact them on 1300 787 624 or search for 'Footpath Occupancy' on Council's website.
- Building – a building permit may be required to change the use of a building. To discuss whether a building permit is required, please search for 'Building Permits' on Council's website or consult with a Private Building Surveyor. Note that Council does not issue building permits.
- Liquor Licence - if your business intends to supply alcohol, you may require a liquor licence or BYO permit. These approvals are administered/issued by Liquor Control Victoria (LCV), which oversees licensing, investigation, and regulation under the *Liquor Control Reform Act 1998*. You can find more information here: [Check if you need a liquor licence | vic.gov.au](https://www.vic.gov.au/check-if-you-need-a-liquor-licence)

Note: While a planning permit is not required for the sale and consumption of liquor, a planning permit may still be required for the following (not limited to):

- Use of the land for a specific purposes (such as a Hotel, Restaurant etc);
- Buildings and Works (including internal alterations);
- Construction and display of signage; and
- A reduction to the number of car parking spaces required.

5. Is an application for the use of land eligible for assessment as a VicSmart planning permit application?

A 'VicSmart' application is a streamlined and generally accelerated planning permit application process.

An application for the use of land is not eligible for the VicSmart process.

6. What if I operate a home-based business?

A home-based business is one where your residence is also your place of business. This may include activities like consulting, online retail, hairdressing, or trades operating from home. To qualify as a home-

based business, the activity must be secondary to the residential use and must not adversely affect the neighbourhood's amenity.

You may not need a planning permit if certain conditions are met, including (but not limited to):

- The person conducting the home based business must use the dwelling as their principal place of residence.
- No more than two people who do not live in the dwelling may work in the business.
- The business uses less than 100 square metres or one-third of the dwelling's floor area. The net floor area includes out-buildings and works normal to a dwelling.
- The business must not impose a load on any utility greater than normally required for domestic use.
- The business must not adversely affect the amenity of the neighbourhood in any way.

The Planning requirements for a home based business are contained at Clause 52.11 (Home Based Business) of the Cardinia Planning Scheme.

If your business does not meet these requirements, you'll likely need a planning permit, or depending on the nature of the use, it may be prohibited.

Important

The fact a permit can be granted for a particular proposal does not indicate or imply a permit should or will be granted. Council will assess any application lodged against the relevant facts and provisions of the Cardinia Planning Scheme, as applicable.

Any advice provided within this fact sheet is preliminary advice only and subject to change. Council endeavours to provide clear and accurate advice based on the information provided and the relevant provisions of the Cardinia Planning Scheme.

The advice within this fact sheet is current at the date of publishing but may be impacted by subsequent changes to the Planning Scheme, legislation, the proposal, referral advice, site inspections, the public notification process, and any other change of circumstance.

Further Advice

For general advice, please contact Council's Statutory Planning team on the details below.

For more detailed project/site specific advice (including written confirmation of whether a planning permit is required), it is encouraged to [request planning advice in writing](#) or arrange a [pre-application meeting](#) with Council's Statutory Planning team.

Contact Us

In Person: Visit us at our Civic Centre, 20 Siding Avenue, Officer.

Email: mail@cardinia.vic.gov.au

Phone: 1300 787 624

Web: www.cardinia.vic.gov.au

Translation Information

If you need an interpreter, call the [Translating and Interpreting Service \(TIS National\)](#) on [131 450](#) to speak to an interpreter. Ask them to phone Cardinia Shire Council on [1300 787 624](#)

National Relay Service (NRS)

TTY: 133 677 (ask for 1300 787 624)

Speak and Listen (speech-to-speech relay): 1300 555 727 (ask for 1300 787 624)

Information Requirements – Checklist

If a planning permit is required for the use of land, an application lodged with Council must be accompanied by the necessary supporting documentation and plans, or the application may be void and not able to be assessed.

The below information generally constitutes the minimum information required to accompany an application:

☐	A completed 'Application for a Planning Permit' form – <i>not required if the application is lodged via Council's ePlanning Portal.</i>
☐	The relevant application fee .
☐	A complete copy of title for the subject land, including: ○ A copy of the Register Search Statement (i.e. copy of title). ○ A copy of the Plan of Subdivision for the land. ○ Copies of any restrictive covenants and/or section 173 agreements. <i>These documents must be dated no older than 90 days and can be obtained via the Landata website.</i>
☐	A written report providing a description of the proposed use, including (but not limited to): ○ The purpose of the use and type of activities which will be carried out. ○ The hours of operation. ○ The maximum number of employees. ○ The maximum number of other persons expected on site. ○ The type and quantity of goods to be stored, processed or produced. ○ The likely effects, if any, on adjoining land, including noise levels, traffic, the hours of delivery and despatch of goods and materials and hours of operation. ○ How land not required for immediate use is to be maintained.
☐	For industry or warehouse uses: ○ Whether a Development Licence, Operating Licence, Permit or Registration is required from the Environment Protection Authority. ○ Whether a notification under the <i>Occupational Health and Safety Regulations 2017</i> is required, a licence under the <i>Dangerous Goods Act 1985</i> is required, or a fire protection quantity under the <i>Dangerous Goods (Storage and Handling) Regulations 2022</i> is exceeded.
☐	A fully dimensioned site plan (i.e. a birds eye view of the site), drawn to a stated scale and a minimum of A3 in size, clearly showing: ○ North clearly indicated.

	○ Boundaries and dimensions of the subject site, as detailed on the plan of subdivision. ○ The layout of all buildings on the site and those directly adjoining the site. ○ Location and detail of existing buildings or other features (such as fencing, driveways, waterways, earthworks) on the site. ○ Key features of adjoining land and the surrounding area (such as roads, neighbouring properties and buildings). ○ Location and detail of any easements, as detailed on the plan of subdivision. ○ All driveway, car parking and loading areas. ○ The location of bicycle facilities (if any). ○ All external storage and waste treatment areas. ○ The location of any vegetation or landscaping areas.
☐	A fully dimensioned floor plan (i.e. a birds eye view of the internal layout of the development), drawn to a stated scale and a minimum of A3 in size, clearly showing: ○ North clearly indicated. ○ The internal layout of all proposed buildings, including all relevant dimensions. ○ Location, detail and all relevant dimensions of windows and doors. ○ Location and detail of any proposed internal rooms, with the purpose of the room clearly stated.
The following information may be required:	
☐	A Waste Management Plan demonstrating how waste and recycling will be managed on-site.
☐	An Acoustic Report to evaluate and manage noise impacts associated with the proposed use.

The information listed above comprises the minimum information generally required for an application to be lodged and reviewed by Council.

All applications are different, and Council may determine additional information (beyond that listed above) is required to assess any application.