# 44.03 FLOODWAY OVERLAY

01/07/2021
VC203

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

## Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

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 a declaration has been made.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

## 44.03-1 Floodway objectives and statement of risk

31/07/2018
VC148

A schedule to this overlay may contain:

- Floodway management objectives to be achieved.
- A statement of risk.

## 44.03-2 Buildings and works

15/10/2026
VC306

A permit is required to construct a building or to construct or carry out works, including:

- A fence.
- Roadworks, if the water flow path is redirected or obstructed.
- Bicycle pathways and trails.
- Public toilets.
- A domestic swimming pool or spa and associated mechanical and safety equipment if associated with one dwelling on a lot.
- Rainwater tank with a capacity of not more than 10,000 litres.
- A pergola or verandah, including an open-sided pergola or verandah to a dwelling or a small second dwelling with a finished floor level not more than 800mm above ground level and a maximum building height of 3 metres above ground level.
- A deck, including a deck to a dwelling or a small second dwelling with a finished floor level not more than 800mm above ground level.
- A disabled access ramp.
- Buildings and works associated with a movable unit as defined in the *Housing Act 1983* , carried out by or on behalf of the Chief Executive Officer, Homes Victoria.
- Buildings and works associated with a movable building constructed for a community service and to be used or intended to be used to provide temporary accommodation on a non-profit basis, if that building:
  - Has a floor area not exceeding 45 square metres.
  - Is located on the same lot as an existing dwelling.

– Is the only movable building on the lot.

This does not apply:

- If a schedule to this overlay specifically states that a permit is not required.
- To roadworks or bicycle paths and trails constructed or carried out by or on behalf of the Head, Transport for Victoria, to the satisfaction of the relevant floodplain management authority.
- 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.

## 44.03-3 Subdivision

31/07/2018
VC148

A permit is required to subdivide land. A permit may only be granted to subdivide land if the following apply:

- The subdivision does not create any new lots, which are entirely within this overlay. This does not apply if the subdivision creates a lot, which by agreement between the owner and the relevant floodplain management authority, is to be transferred to an authority for a public purpose.
- The subdivision is the resubdivision of existing lots and the number of lots is not increased, unless a local floodplain development plan incorporated into this scheme specifically provides otherwise.

## 44.03-4 Application requirements

31/07/2018
VC148

### Local floodplain development plan

If a local floodplain development plan has been developed for the area and has been incorporated into this scheme, an application must be consistent with the plan.

### Flood risk report

If a local floodplain development plan for the area has not been incorporated into this scheme, 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 Municipal Planning Strategy and the 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 river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.
- An application must be accompanied by any information specified in a schedule to this overlay.

## 44.03-5 Exemption from notice and review

31/07/2018
VC148

An application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

## 44.03-6 Referral of applications

31/07/2018
VC148

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.

## 44.03-7 Decision guidelines

31/07/2018
VC148

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- The local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.
- The Victorian River Health Strategy (2002) and any relevant regional river health strategy and associated wetland plan.
- Any other matters specified in a schedule to this overlay.