

**52.18**21/10/2020  
VC193**STATE OF EMERGENCY AND RECOVERY EXEMPTIONS****Purpose**

To facilitate the delivery of food and other essential goods during and following the coronavirus (COVID-19) pandemic.

To support Victoria's social and economic recovery from the coronavirus (COVID-19) pandemic through exemptions that enable outdoor dining and facilitate the reopening and safe operation of restaurants and other food and drink businesses.

**52.18-1**21/10/2020  
VC193**Operation**

This clause contains exemptions from the requirements of this planning scheme and exemptions from conditions of permits.

The exemptions in this clause prevail over any inconsistent provision in this planning scheme or condition of a permit.

The exemptions in this clause do not apply to a requirement in the Heritage Overlay relating to the construction or carrying out of works to an existing building, the alteration of an existing building, or the painting of an existing building, other than a building constructed or placed under an exemption in this clause.

A use or development carried out under an exemption in this clause must comply with the requirements in clauses 52.18-7.

In this clause:

- **drink** includes liquor;
- **exemption period** means the period when a state of emergency declaration under the *Public Health and Wellbeing Act 2008* in relation to coronavirus (COVID-19) is in force and for 12 months after;
- **public land** means Crown land and land that is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.

**52.18-2**21/10/2020  
VC193**Deliveries exemption**

The following exemption applies when a state of emergency declaration under the *Public Health and Wellbeing Act 2008* in relation to coronavirus (COVID-19) is in force and for three months after.

Any requirement of a permit, including any condition, or any provision in this planning scheme, that limits, or has the effect of limiting, the hours or days during which goods may be dispatched, delivered, loaded or unloaded does not apply to the dispatch, delivery, loading or unloading of:

- Food, drink, groceries, medicine, or cleaning, sanitising, health, hygiene, medical or personal protection equipment, supplies, or products, or the like.
- Any goods to a supermarket, market, hospital, medical centre, pharmacy, residential aged care facility or retirement village.

**52.18-3**21/10/2020  
VC193**Public land exemptions**

Any requirement in this planning scheme relating to the use of land does not apply to the use of public land for the preparation or sale of food or drink for immediate consumption on, or off, the land, or for the consumption of food or drink, during the exemption period if the requirements of clause 52.18-7 are met.

Any requirement in this planning scheme relating to the construction of a building or the construction or carrying out of works on public land does not apply to a temporary building or moveable building associated with the preparation, sale or consumption of food or drink on the land during the exemption period if the requirements of clause 52.18-7 are met.

**52.18-4**

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**Food and drink business extension exemptions**

Any requirement in this planning scheme relating to the use of land does not apply to the use of land for the preparation or sale of food or drink for immediate consumption on, or off, the land, or for the consumption of food or drink, during the exemption period if the use is associated with the existing use of adjoining land for a food and drink premises, function centre or winery, and the requirements of clause 52.18-7 are met.

Any requirement in this planning scheme relating to the construction of a building or the construction or carrying out of works does not apply to a temporary building or moveable building associated with the use of the land for the preparation or sale of food or drink for immediate consumption on, or off the land, or for the consumption of food or drink, during the exemption period if the requirements of clause 52.18-7 are met.

**52.18-5**

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**Car parking exemption**

Any requirement of this planning scheme relating to the provision of car parking does not apply to a use commenced under an exemption in this clause, or the existing use of land for a food and drink premises, function centre or winery, during the exemption period.

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**Permit condition exemptions**

The following exemptions apply to permits issued before the approval date of Amendment VC193 and which allow:

- the use or development of land for a food and drink premises, function centre or winery; or
- the use or development of land for the sale or consumption of liquor associated with the use of the land for a food and drink premises, function centre or winery.

Any requirement of a permit, including any condition, relating to the layout or location of the preparation, sale or consumption of food or drink on the land does not apply during the exemption period if the requirements of clause 52.18-7 are met.

Any requirement of a permit, including any condition, relating to the layout or location of development on the land does not apply to the construction or placing of a building, or the construction or carrying out of works, under an exemption in this clause if the requirements of clause 52.18-7 are met.

Any requirement of a permit, including any condition, that requires the provision of car parking, or requires land to be set aside for vehicle access or car parking, does not apply during the exemption period if the requirements of clause 52.18-7 are met.

**52.18-7**

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**Use and development requirements**

The following requirements apply to the use and development land carried out under an exemption in this clause.

The use of the land must not:

- Continue after the exemption period unless in accordance with the requirements of this planning scheme.
- Unreasonably affect the amenity of the neighbourhood, including through:
  - Transport of materials, goods or commodities to or from the land.

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- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

Land in, or within 30 metres of, a residential zone must not be used for the outdoor consumption of food or drink between the hours of 10.00pm and 7.00am unless an existing permit allows otherwise. The responsible authority may vary this requirement to extend the hours of the use.

The use or development of land must not impede access required by emergency services or for waste collection.

The height of a building constructed or placed under an exemption in this clause must not exceed 3.6 metres.

A building must not be constructed or placed under an exemption in this clause within 1 metre of adjacent land in a residential zone if the height of the building exceeds 1.8 metres.

The siting of a building in a Bushfire Management Overlay or Erosion Management Overlay that would require a permit under the overlay were it not for an exemption in this clause must be to the satisfaction of the responsible authority.

The siting of a building in a Floodway Overlay, Land Subject to Inundation Overlay or Special Building Overlay that would require a permit under the overlay were it not for an exemption in this clause must be to the satisfaction of the relevant floodplain management authority.

A building constructed or placed under an exemption in this clause must be removed from the land before the end of the exemption period.