Victorian Permissions Framework

Guide 1 – Designing a fit for purpose permissions scheme

Version 1

VICTORIA State Government

Treasury and Finance

When and how to use this guide

This guide provides step by step guidance on applying the Victorian Permissions Framework (the Framework). This guide applies stages 1 to 3 and is intended for those seeking to shape the policy settings and regulatory design that underpin an existing or new permission to manage a specific harm.

It will help you:

- identify when there is a role for government action to establish a permissions scheme
- decide what type of permission is appropriate for the class of harm and level of risk you are managing
- design new permissions and assess existing permissions to achieve your regulatory intent while imposing the least regulatory burden
- prompt reform of existing permissions – streamline, consolidate or abolish.

It is designed to help with:

- foundational resets of enabling legislation and regulations where there are inconsistencies with the Framework
- assessing whether a new permission regime is required and what best practice design and implementation could involve
- ongoing refinement of regulatory settings and practice within the policy cycle.

This Guide should be read in conjunction with the Victorian Guide to Regulation.

Guide 2: Refining and improving how permissions work will help to fine-tune and test design features as well as examine and improve how permissions will operate in practice.

The Framework and Guides can be used in many situations such as:

- Regulating a new industry or technology
- Addressing emerging risks
- Planning significant reform of existing Framework
- Preparing to remake regulations
- Responding to stakeholder issues
- Contributing to an ongoing cycle of continuous improvement of regulation and regulators
- Reviewing regulatory practice
- Preparing to digitise permissions
- Communicating a permissions scheme to industry
- Analysing a particular feature of a permission

Five key principles to best practice design and use of permissions

Permissions are an important tool for managing risk. A new permission scheme should meet these principles. An existing scheme should be reviewed to ensure it meets these principles.

Risk-based and proportionate

Permissions should be commensurate with the risks being managed.

In outcomes-based regulatory models, permissions should target highest risks.

Regulators should tailor conditions to entity performance and their ability to manage risk.

Effective and efficient

Permissions should apply the least burden to effectively control risk in concert with other risk controls.

Permission holders should be able to follow and meet requirements efficiently.

Design should consider costs to entities and regulators.

Streamlined and targeted

Without compromising the other four principles, permissions reform should:

- reduce the intensity of control or extent of coverage
- remove unnecessary permissions
- consolidate permissions with significant overlap
- align with other jurisdictions where appropriate.

Digital ready

Regulatory requirements (such as Fit and Proper Tests) should be standardised to align with best practice and digitised where possible.

Regulator processes should aim for businesses telling government once.

Consider during design whether legislation could be implemented digitally and whether there is sufficient clarity about how the law is intended to operate.

Regularly reviewed

Permissions should be reviewed and improved regularly.

Regulatory frameworks must align with the Victorian Government's Treaty obligations.

Consultation with stakeholders should inform regulatory design.

Outcomes of reviews should be communicated to decision-makers and stakeholders.

This guide applies stages 1 to 3 of the Framework

It supports departments and regulators to determine whether permissions should be used and how to select the right type of permission.

Guide 1 - Designing a fit for purpose permissions scheme

1. Understand problems

- What are the risks and are they substantial?
- Do they warrant a role for government?

If there is a need for Government intervention

2. Consider available tools

- What are the best tools, is a permission required to manage the risk?

If permissions are required

3. Select permissions

- How can a scheme be designed to target risks efficiently and effectively?

For a given permission scheme

Guide 2 - Refining and improving how permissions work

4. Design features

- How can we target risk using best mix of features for each permission?

If planning or improving administration of a scheme

5. Administer effectively

- Do regulator practices achieve the best risk management using existing permissions?

For all permission schemes

6. Evaluate outcomes

- Do monitoring and evaluation processes inform policy and regulatory improvement?

If desired outcomes are not being met, go to step 1

Using this Guide

Structure

- Stage 1: Understand problems
- Stage 2: Consider available tools
- Stage 3: Select permissions
- Next steps
- Appendices

Before you begin

Be clear about the context for your review. What has prompted the review?

Identify relevant permissions and how they work within their broader regulatory regime and the state, interstate and national context.

Even if you are considering a new permission, there may be relevant other permissions.

There is flexibility in applying the Framework under national agreements and some emergency response regulatory frameworks.

Apply the stages in order in this guide. Be prepared to return to earlier stages if you are unable to approach the questions as prompted or your analysis suggests a broader approach is needed. See **Appendix 1** for an outline of related guides.

Use the template included in **Appendix 1** to summarise findings to support a recommended reform.

Stage 1: Understand problems

1.1 Identify the nature and extent of the problem(s)

1.2 Assess the risk of harm

1.3 Consider if the risk of harm needs to be controlled before it happens

1.4 Consider if there is a role for government and identify policy objectives

Focus of this stage

Is there a role for government?

In this stage you will identify the nature of the harm you are considering and the level of risk of the harm.

You will focus on the drivers of the harm and whether there is a role for the Government to manage the risk and if so, what the policy objectives are.

Key questions – understanding problems

NATURE OF PROBLEM

- Who or what is creating the harm?
- Is the harm becoming worse over time?
- What is government already doing?

ASSESS RISK

- What is the likelihood that harms occur and what are the potential impacts?
- Is there a high likelihood of harms occurring and would the impacts of harm be high or significant?
- Is the assessed level of risk in the absence of government action higher than the acceptable level?

CONTROL BEFORE?

- What is the likelihood and scale of the harms to be managed?
- Is the harm able to be effectively remedied without further government intervention?

ROLE FOR GOVERNMENT

- What might happen if government did not intervene?
- What are the incentives, disincentives and obstacles for markets to manage the risk?
- What is the likelihood and ability of markets to solve the problem in the absence of government action? Has the market been shown to be effective is this type of situation before?
- Are there ways in which market responses can be encouraged or supported?
- If it is appropriate for the Government to intervene, what are the policy objectives?

1.1 Identify the nature and extent of the problem

Identifying the nature and extent of the problem

The first step is to have a clear picture of the problem, including understanding:

- the activity which is potentially creating the harm
- the frequency of the activity that potentially causes harm
- who and how many are involved in the activity that potentially causes the harms
- the nature, extent and rate of change of the harms to be managed
- which and how many people or businesses are likely to be impacted
- whether there are subsets of harms/issues and impacted stakeholders (e.g. those with high vulnerability)
- What existing government interventions are impacting the situation?

See **Appendix 2** for additional information on why a harms focus is recommended, and how to identify harms.

Key questions

- Who or what is creating the harm?
- Is the harm becoming worse over time?
- What is government already doing?

Harm domains and issues in markets include:

Issues relating to how a market operates
public goods, externalities, information asymmetry, market power

1.2 Assess the risk of harm

Assessing the risk of harm

Assessing the risk of harm requires assessing both the likelihood of negative outcomes and the scale of impact if those outcomes occurred.

Using a risk matrix can help with this assessment, where:

Risk = potential impact x likelihood of occurrence

See a general risk matrix in **Appendix 2**.

Reducing or avoiding risks entails cost, and often the costs are too large to justify given the small probabilities of hazard or because of the small impact risk reduction efforts might have. For this reason, the anticipated level of risk without government action needs to be considered relative to what might be considered an acceptable level of risk.

If the level of risk in the absence of government intervention is greater than the acceptable level of risk, government action may be warranted.

While much risk analysis deals with extremely unlikely events (e.g. road safety – 10-year risk of dying in a road crash is 0.001), we also need to think about common risks – high / low consequence and impact. How we categorise risk is important to working out if and how we should mitigate the effects of harm.

Key questions

- What is the likelihood that harms occur and what are the potential impacts?
- Is there a high likelihood of harms occurring and would the impacts of harm be high or significant?
- Is the assessed level of risk in the absence of government action higher than the acceptable level?

Example – Assessment steps

What is this licence for?:

- Required to drive a vehicle transporting explosives.

What are the risks?:

- Explosives have the capacity to cause severe and large-scale damage at any point of their lifecycle, if they are not handled or stored safely.

What are the consequences?:

- Consequences include loss of human life, which is a severe harm in the category of community safety.

What is the likelihood?:

- Between 2011 and 2021 there have been 15 fatalities caused by explosives in Victoria.
- Given the limited number of incidents, the likelihood of harm occurring is unlikely.

Risk level according to the matrix:

- This activity would be classified as high risk because, although unlikely to occur, there are significant consequences.

1.3 Does the risk need to be controlled before it happens?

Understanding remedy options

Seeking to control harms before they occur may not be the best approach to managing harms where risks are relatively low and there is good ability to effectively remedy their impact.

Remedies refer to the legal avenues available to repair, replace, treat, restore, clean up or compensate for the harm that occurs. Some mechanisms for remedy already exist, such as general consumer law (which provides for remedies such as insurance, warranties and refunds). If existing remedies are inadequate or do not exist, there may be a role for government to establish or reform them. The private sector may also provide responses to the occurrence of the harm.

Additional action by government to manage harms before they occur may be needed if:

- the consequences of the harm are irreversible e.g. if harm results in death or life-changing injury there is no remedy that can restore the situation
- potential remedies are inadequate e.g. financial losses may be recoverable, but other losses such as environmental damage or physical injury may be more difficult or impossible to remedy satisfactorily
- obtaining or implementing a remedy is unduly costly or time consuming e.g. if the court system needs to be involved.

Key considerations to inform this assessment include establishing:

- who is responsible for harm remedy, and how likely are they to implement effective harm remedies without government intervention?
- If remedying harm is a more efficient and/or cost-effective approach to achieving policy objectives than prevention of harm?
- the remedies available i.e. are they limited to damages, or are injunctions or more specific performance remedies available?
- the forum in which the matter would be heard i.e. are administrative tribunals available or would the courts need to be used? This affects the cost and amount of time needed to resolve a matter.

Key questions

- What is the likelihood and scale of the harms to be managed?
- Is the harm able to be effectively remedied without further government intervention?

1.4 Consider if there is a role for government and identify policy objectives

Consider whether private sector action is likely to be sufficient to manage the risk

If markets are sufficiently established and capable of acceptably managing risk, consider a market approach and removing a permission or reducing its level if one already exists. Factors that heighten incentive for market responses include pressures along the supply chain to manage risks, or development of consumer monitoring and market information.

Lessons may be drawn from the experience of market solutions to similar problems in other sectors.

Potential remedies or market solutions may not occur simply because a regulatory scheme is in place or because other barriers are preventing their emergence. Once potential options have been identified, an assessment can be made as to whether these would emerge if government did not intervene or if barriers to their emergence were removed. It is also important to consider how the potential for market-based solutions to emerge may change over time in response to industry development, innovation or technological advances.

Government action to manage risk is more likely to be needed when:

- the risk of harm is relatively high
- the ability to remedy the harm is poor
- the private sector is unable or unlikely provide an adequate response without government action.

The expected benefits of government intervention must also exceed the costs.
Government action should be designed to achieve policy objectives that target an acceptable level risk. See **Appendix 2** for additional information about identifying policy objectives.

Key questions

- What is the likelihood and scale of the harms to be managed?
- What might happen if the government did not intervene?
- What are the incentives, disincentives and obstacles for markets to manage the risk?
- What is the likelihood and ability of markets to solve the problem in the absence of government action? Has the market been shown to be effective is this type of situation before?
- Are the ways in which market responses can be encouraged or supported?
- What would the policy objectives be for any intervention?

Stage 1: Reflection point

By this stage, you will have decided if the harm warrants government intervention. In the process you identify the acceptable level of risk and the policy objectives that intervention aims to achieve.

1.1 Identify the nature and extent of the problem(s)

1.2 Assess the risk of harm

1.3 Consider if the risk of harm needs to be controlled before it happens

1.4 Consider if there is a role for government and the policy objectives

If the risks (likelihood and impact) of harm are above acceptable levels

AND

The ability to satisfactorily remedy the harm after it occurs is poor

AND

Markets are unlikely to address the harm

THEN

The harm may warrant government intervention

Otherwise – do not proceed

Stage 2: Consider available tools

2.1 Consider if existing generic laws or targeted non-regulatory responses would be sufficient

2.2 Consider if general conduct requirements would be sufficient

2.3 Consider if additional support is needed for monitoring and enforcement or to support other regulatory functions

Focus of this stage

What tools might address the problem and are these sufficient without a permission?

In this stage you will assess whether there are ways government can intervene to address the harm without a permission.

If government cannot intervene to achieve a policy objective without a permission, there is a case to explore and design the permission.

Key questions – consider available tools

EXISTING LAWS

- Can existing generic laws manage the problem satisfactorily or is something additional needed?
- Would targeted non-regulatory responses on their own be sufficient?

GENERAL CONDUCT REQUIREMENT

- To what extent could regulation without permissions manage the risk?
- Are there any gaps in achieving policy objectives that might best be filled with a permission?
- What are the options and trade-offs to best achieve policy goals across the whole regulatory regime?

OTHER REASONS

- Is there strong justification for a permission to support monitoring and enforcement, or to support other regulatory functions?
- Could a notification be used to collect information and enable effective monitoring and enforcement without a permission?

RECAP

- Check the general findings on when permissions are, might be and are not appropriate.

2.1 Consider if existing generic laws or targeted non-regulatory responses would be sufficient

Combinations of the following responses could work together to address a problem.

Consider if generic laws are sufficient to manage the risk of harm

Generic (economy-wide) laws include criminal, competition, consumer, fair trading, OH&S and company laws. Using generic laws can provide consistency in the way problems are addressed and can pose less regulatory burden. Generic laws generally provide remedy after harms have occurred.

If the problem is related to something specific about people, product or a place that requires targeted action to be taken, it is more likely that generic or existing laws will not be sufficient. Generic laws are also unlikely to be sufficient where control or prevention of harm is required or strongly preferred.

Sometimes there are issues with design or ability to enforce existing laws. If these can be addressed, this is generally preferred over new action.

Consider if targeted non-regulatory responses may be sufficient

Consider a non-regulatory approach and removing a permission or reducing its level if sector specific non-regulatory responses are sufficient.

Examples include education, technical guidance, persuasion or incentives.

Interjurisdictional approaches may need to be considered, e.g. if:

- the problem is caused by or related to interactions across jurisdictions
- the problem has the same characteristics across jurisdictions
- there is value in a coordinated or harmonised approach including easier enforcement, savings for government, reduced burden for businesses.

Key questions

- Can existing generic laws can manage the problem satisfactorily or is something additional needed?
- Would targeted non-regulatory responses on their own be sufficient?

Example

Policy objective	Potential responses
Educate practitioners on responsibilities and ensure a clearer understanding of rules	Publish practice/ guidance notes and compliance policies
Communicate with industry	Communicate through industry peak bodies
Ensure mandatory information provision	Require education of consumers on their rights, have robust complaints handling function and ability to respond to reports of non-compliance
Establish product standards	Labelling laws may be sufficient unless practitioners cannot test and detect risks in their products
Enable enforcement	Improve penalties and/or utilise notification with standards for conduct established through regulation
Support compliance	Publish guidance

2.2 Consider if general conduct requirements can reduce the need for permissions

How can general requirements reduce the need for permissions

General duties and conduct requirements can reduce the need for permissions. **Ideally, permissions are only used when risks are high and it is difficult to define or enforce general duties and conduct requirements.**

These approaches to minimise the use of permissions are best suited to generalised and ongoing behaviours that create harms where it is difficult to precisely prescribe remedies to those harms, or it is costly to do so.

A permission should, therefore, focus on residual harm not being addressed by existing duties and conduct requirements. In doing so, the regulator should avoid prescriptive approaches to addressing harms for the permission unless they are high risk and there is no prospect that outcomes-based approaches would be successful.

In the first instance, **outcomes and performance-based** regulatory approaches are preferred. Consider process-based regulation where there are high risks that need to be managed simultaneously. However, there can be circumstances where this is not possible or appropriate. For example, **permissions may be useful** where the risk of harm is high because the industry is characterised by:

- historically poor performance and culture where there is a strong possibility of non-compliance.
- being a frontier or emerging industry, where there are significant gaps in information about outcomes and risk.

Key questions

- To what extent could regulation without permissions manage the risk?
- Are there any gaps in achieving policy objectives that might best be filled with a permission?
- What are the options and trade-offs to best achieve policy goals across the whole regulatory regime?

Example – General requirements

Seatbelts must be worn by passengers and drivers in vehicles. This rule is effectively applied through regulatory provisions (conduct requirements) and not as a condition of a licence because:

- the risks will not change over time – it is unlikely for this requirement to be redundant in the future.
- the risk is the same for everyone – there is no need to apply this requirement selectively.

Additionally, there is value in applying the rule outside of the permission conditions as passengers over 16 years of age can be fined, whether or not they have a drivers licence.

This example illustrates where conduct requirements are more suitable than permission conditions.

2.3 Consider if a permission is needed for monitoring and enforcement or to support other regulatory functions

Need for permission to support other functions

Additional requirements may be needed to support enforcement or to support administrative sanctions, monitoring and/or other regulatory functions.

Administrative sanctions may be needed to enforce new rules, or to support enforcement of existing rules if education and generic approaches are insufficient to address the problem.

Consideration should be given to whether:

- generic remedies have been pursued and tested and, if not, whether they can be
- generic remedies generated sufficient compliance
- there is evidence of a non-regulatory response working well elsewhere – such as in other jurisdictions or comparable sectors.

A requirement to **notify** ('notification') would often be sufficient for this purpose, and should be considered instead of a permission where possible.

Permissions may also be useful if a regulatory regime does not include sufficient powers, or a regulator has insufficient resources or knowledge to manage risks.

Key questions

- Is there strong justification for a permission to support monitoring and enforcement, or to support other regulatory functions?
- Could a notification be used to collect information and enable effective monitoring and enforcement without a permission?

Example – Supporting permission

Meat and seafood products

PrimeSafe's main policy objective is to ensure the safety of all meat and seafood products for consumers.

PrimeSafe's licensing system, which applies to all meat processing facilities and seafood businesses in Victoria, helps to achieve the policy objective by facilitating monitoring and enforcement of licence conditions that target food safety. For example, all meat and seafood processing facilities are required to undertake third-party audits.

Environment

The Environment Protection Authority (EPA)'s policy objective is to protect the environment and human health from the impacts of pollution and waste.

EPA's licensing system helps to achieve the policy objective by facilitating its compliance approach, especially the use of registrations to low to medium level risks.

2.3 Consider if a permission is needed for monitoring and enforcement or to support other regulatory functions

Permissions can impose costs and delays for business. They are a strong regulatory tool and should be reserved for use in certain circumstances.

Permissions are suitable in some circumstances

Permissions are more likely to be suitable where:

- there is a role for government and regulation is needed
- the risk is high
- it is more effective to control risks before they arise than remedy harms after they occur.

A permission might be considered, only with strong justification, when:

- a regulatory regime does not include sufficient powers or a regulator has insufficient resources or information to manage risks
- required by a national obligation or cross-jurisdictional arrangement
- regulating industries that are immature or have high rates of intentional non-compliance where general regulation is ineffective
- the primary reason is to support monitoring, enforcement or revenue collection.

... and not in others

Permissions are not required or warranted where:

- the level of risk is acceptable
- harm can be remedied after it occurs in a timely, cost-effective way by markets or using general regulation
- they would create a barrier to entry to a profession or market that significantly reduces competition and where a product or service standard or other regulation could be used instead
- a short-term issue has arisen that may not be enduring
- there is no cost-effective design that manages the risk.

Stage 2: Reflection point

By this stage, you will have decided whether you may need a permission to address the harm or whether other tools and approaches could be sufficient without the need for a permission.

2.1 Consider if existing generic laws or non-regulatory responses would be sufficient

2.2 Consider if general conduct requirements can achieve policy objectives without permissions?

2.3 Consider if permissions are needed for monitoring and enforcement or to support other regulatory functions

If generic laws, non-regulatory and general conduct responses are not sufficient

OR

If permissions are needed to enable enforcement and compliance

THEN

There may be a role to use a permission to manage the harm

Otherwise – do not proceed

Stage 3: Select permissions

3.1 Identify potential targets and degrees of control

3.2 Select permission type to achieve policy objective

3.3 Define coverage for each permission

3.4 Consider opportunities to consolidate existing permissions

3.5 Iterate to reach a scheme that most effectively controls risks and avoids unnecessary burden

Focus of this stage

What is the most suitable set of permissions in the regulatory regime?

In this stage you will use a risk matrix to assess what type and level of permission might be appropriate.

You will also explore scope to which the permission will apply and whether there are opportunities to consolidate permissions.

Key questions – select permissions

OPTIONS

- What are the feasible options for targeting risk and how much control would be needed?

SELECT TYPE

- **Step 1**: Determine the level of risk and what that means for the level of control.
- **Step 2**: Determine what type of permission category could be appropriate?
- **Step 3**: Treat the level of risk with the optimal permission.

COVERAGE

- What point(s) of coverage (process, product, people or place) is the most appropriate?
- Is the coverage of a permission clearly identifiable to regulators and permission holders?
- Is coverage limited to the minimum necessary group to address the risk being managed?

CONSOLIDATE

- Are there opportunities to consolidate similar permissions?

3.1 Identify target and control options

Generally, permissions should only be required if prior approval is necessary. That is, in situations where risks are high or significant, and are best managed before risk events can occur rather than after the fact.

Setting permission targets

Permissions can set requirements or targets for people, processes, products and places (the '4Ps'). As you consider designing or reforming permissions, start by exploring:

- all feasible sources of risk and potential permission targets
- options for levels of scrutiny and control

Balance degrees of control and simplicity to achieve policy objectives

A regulatory regime must find a balance between consistent management of each entity, while also accounting for individual entity activities and sources of risk. Consider the extent to which a permission, or permissions, can most directly address drivers of risk while meeting other objectives, including simplicity, cost-effectiveness, legality and other factors.

Design goals include:

- clarity for applicants to know what permission they need, to cover desired risks and avoid adding burden when not required
- incentives for entities to adopt desired behaviours and avoid distortions at boundaries of permissions.

Stage 4 covers the design of features, including risk controls. Further detail and guidance for this stage is provided in Guide 2.

Examples – Permission target

- A simple scheme with one permission regulates more uniformly, which means that if risks do differ, some will be under-regulated and some over-regulated.
- A scheme might isolate a high-risk group and apply a lot of control (such as pre-screening and conditions), while the rest of the industry is required to hold a registration with perhaps one uniform condition.
- EPA uses three tiers of permissions to manage multiple classes of activity.

Key questions

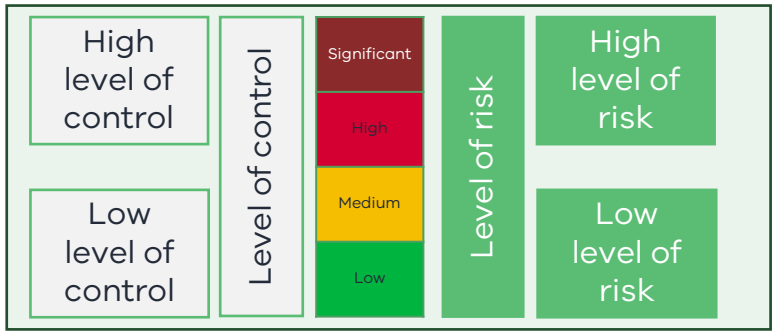
- What are the feasible options for targeting risk and how much control would be needed?

3.2 Select permission type to achieve policy objective

How should the permission type be selected?

Step 1: Determine the level of risk and what that means for the level of control

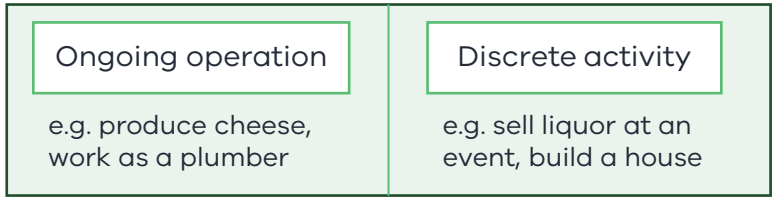
- High level of risk means that a high level of control is needed
- Low level of risk means that a low level of control is needed and either no permission or a notification is appropriate
- Guide 2 covers design of specific controls (e.g. Fit and Proper Test, conditions).



AND

Step 2: Determine what type of permission category could be appropriate?

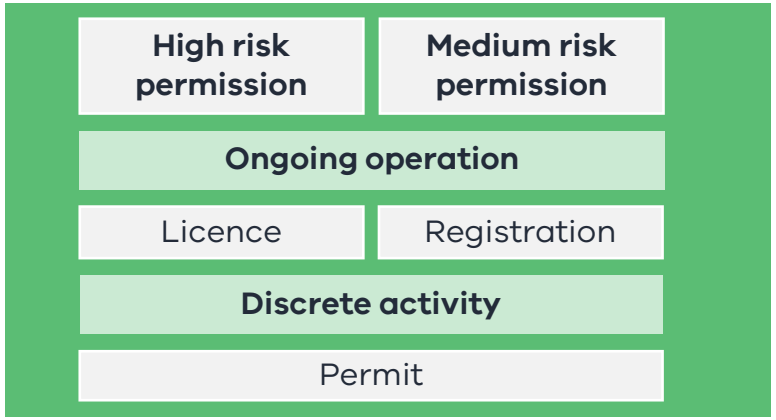
- If an activity of a business or individual is ongoing, then a licence or registration may be appropriate
- If an activity is one-off or of short duration a permit may be appropriate.



THEN

Step 3: Treat the level of risk with the optimal permission

- Operate in a market and high risk, then a licence is appropriate
- Operate is a market and medium risk, then a registration is appropriate
- If a high-risk specific activity, then a permit is appropriate – but with conditions
- If a medium-risk discrete activity, then a permit is appropriate – but with fewer conditions.



The best approach is to begin by considering the lowest burden permission (registrations and low-risk permits), and only progress to a higher burden permission (high-risk permits or licences) if this can be supported by argument and evidence.

3.3 Define the most appropriate coverage

What is coverage and how should it be defined?

- Coverage involves who and what is covered by a permission scheme, and where it will apply.
- The coverage of the permission scheme should be focused on who or what is driving the risk of harm and should be proportional to risk.
- Defining coverage should also consider the benefits and costs of managing risk associated with different points of coverage, and the technical and legal feasibility of alternative approaches. The costs of managing risk should include the compliance and administration burden for both regulators and regulatees.
- Coverage should be limited to the minimum necessary group to address the risk being managed.
- Thresholds and exemptions can be applied to tighten target coverage, particularly where groups with certain characteristics have a different levels of identifiable risk (see Framework Stage 4).
- Which points of coverage are most closely aligned with what is driving the risk or are best placed to manage the risk?
- When choosing the right point of coverage, consider the advantages and disadvantages of how the specification of alternative points of coverage manages risk. This could include examining
  - the benefits and costs of implementing alternative points of coverage
  - the technical and legal feasibility of regulating effectively for different points of coverage.

Key questions

- What point(s) of coverage (process, product, people or place) is the most appropriate?
- Is the coverage of a permission clearly identifiable to regulators and permission holders?
- Is coverage limited to the minimum necessary group to address the risk being managed?

Example – Appropriate coverage

The *Child Employment Act 2003* regulates employment of children. It is administered by the Wage Inspectorate.

On 1 July 2023, a streamlined child employment licensing system replaced the permit system, reducing the burden on business.

Where a licence is issued, employers will be able to employ multiple children under one licence, rather than applying for a permit for each child they engage.

The new licensing system is risk-based, allowing the Wage Inspectorate to focus on monitoring those types of work that are the highest risk.

https://www.vic.gov.au/changes-child-employment-act

3.4 Consider opportunities to consolidate permissions

What is consolidation and what are the implications?

It is important to minimise the compliance and administrative costs and impacts on growth and innovation of businesses. One way to do this is to consider elements of the permissions scheme that could be consolidated or made consistent with other permissions.

Consolidation is desirable when it can reduce the overall level of regulatory burden without increasing risk. Where there are similar permissions, certain requirements could be made uniform with permissions consolidated into one permission.

e.g. Some current licences could be reduced to registrations with universal or standardised conditions, and remaining licences for high and severe risks consolidated with different sets of conditions based on the type of operation. There may be difficulties consolidating permissions where there are national or interjurisdictional requirements.

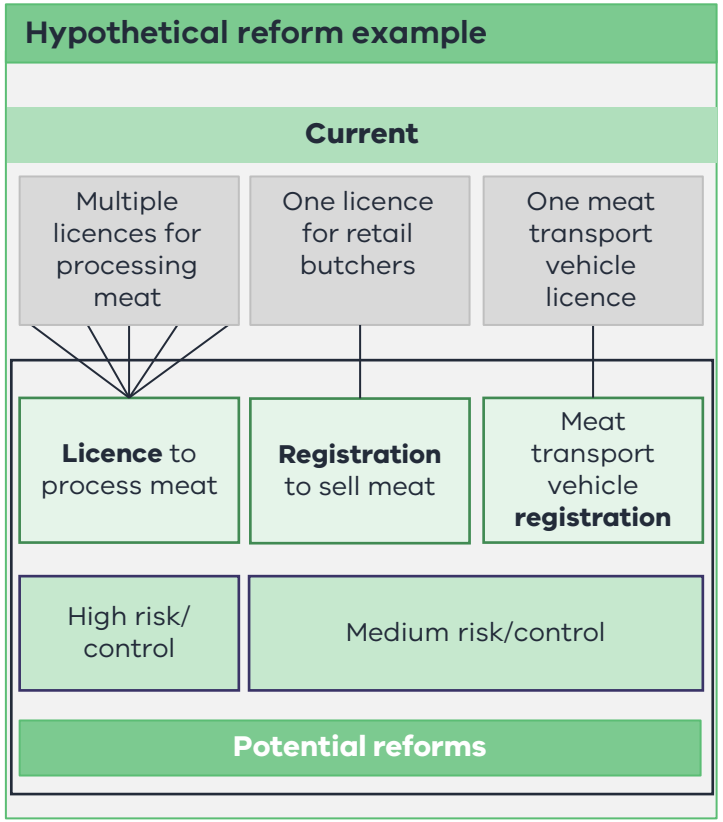
To determine whether consolidation is appropriate consider:

- to what extent are the harms and their causes similar?
- would the likely conditions on the permission be similar?
- are businesses likely to conduct similar sorts of operations but required to hold multiple types of licences?
- if multiple permissions were used to manage the harms, how would each permission differ?

If the harms and their causes are sufficiently similar, consolidation can be considered if there are minimal impacts on the effectiveness of risk-control and degree of burden imposed.

Consider using a tiered permission, where the harms and causes are similar but different features and/or intensity of features are required to manage risks effectively and/or without undue burden.

Hypothetical reform example



Key question

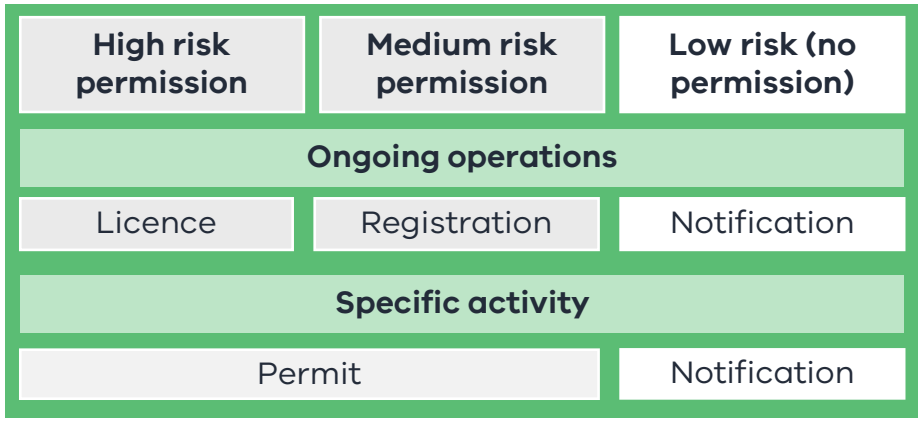
- Are there opportunities to consolidate similar permissions?

Stage 3: Reflection point

By this stage you will have decided if you only require a notification, or if a permission that focuses on operating in a market or an activity is required - and broadly under what circumstances this should apply. You will also have decided whether some permissions are able to be consolidated.

Identify potential targets and degrees of control

Select the permission type to achieve the targeted policy objective



Define the most appropriate coverage

Permissions apply to the drivers of risk = people + (process, product or place)

Consider opportunities to consolidate existing permissions

Similar permissions are consolidated where possible

Next steps

Weigh up options

When you reach this point, you may have determined that permissions should be removed, reformed or introduced as part of your regulatory regime. If they have a place, you will have identified options and may have settled core permissions within a permission scheme.

It is worthwhile to pause and reflect on whether the process and results are sound. Test these with executive, relevant regulator(s) and related policy areas. Do not rush to detailed design of new or reformed permissions. **Supporting information on weighing up options is provided in Appendix 2.**

For a proposed new permission scheme, consider whether the analysis has prompted reform of any related existing permissions, and apply the stages to those as well.

For an existing permission scheme, consider whether there are related permissions that should also be assessed. If so, review your problem analysis in stage 1 and, if appropriate, move through the stages again with a broader focus.

Conduct a preliminary assessment of benefits and costs, to settle one or more options to take forward for more detailed design. Ensure there is appropriate policy support before proceeding further.

Then proceed to Guide 2

Guide 2 – Refining and improving how permissions work provides guidelines for the (re)design and management planning of individual permissions within the broader regulatory regime. E.g. Guide 2 will help consider Fit and Proper Test requirements. Considerations from both Guides are important before making a final recommendation to implement a new or substantially reformed permissions scheme.

Guide 2 also supports assessment and improvement of how an existing permissions scheme, and may be undertaken without detailed application of Guide 1.

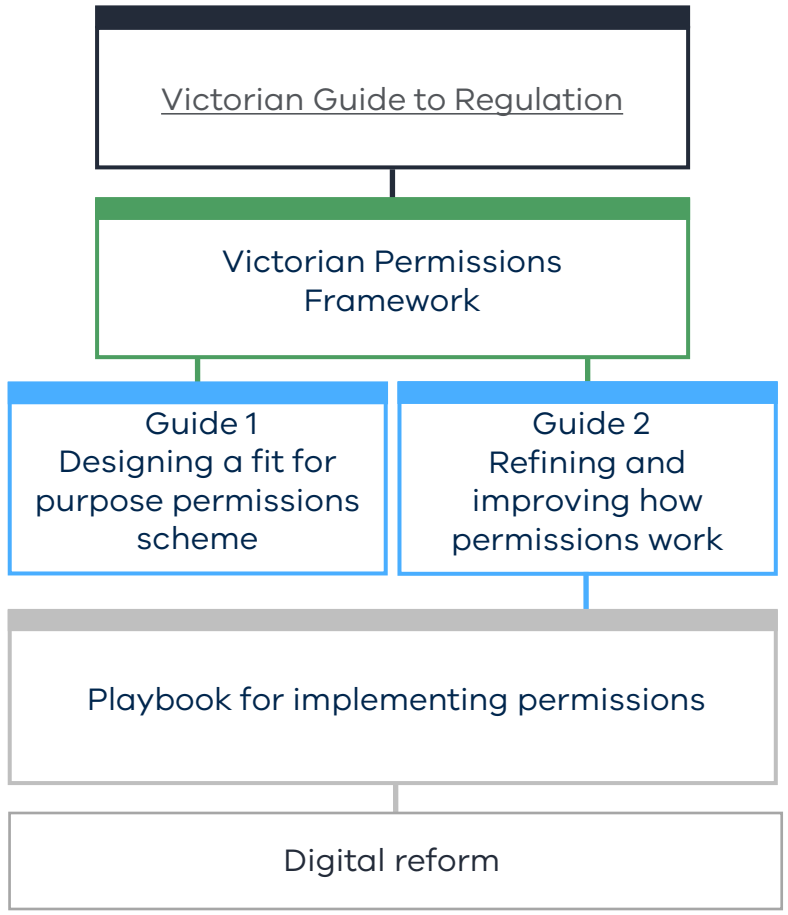
Appendix 1

Overview and templates

A central suite of resources to support consistent best practice use

Tailored, easy to use and accessible on the Better Regulation Victoria (BRV) website.

BRV Towards Best Practice Guide



The overarching policy guiding regulatory approaches: Guidance to determine and assess regulatory approaches when making regulations, including permissions.

The role, design and administration of permissions: Framework to work through major policy changes that create or amend permissions; useful for routine reviews of legislation and regulation.

The design and assessment of permissions: Guidance and criteria for designing, assessing and managing permissions. Guide 1 supports stages 1 to 3 and Guide 2 supports stages 4 to 6 of the Framework

The implementation of permissions: The Playbook supports 'better practice' implementation enabled by digital reform. Opportunities will be provided for best practice, standardised Fit and Proper tests where appropriate.

The digitisation of permissions: permission design needs to align with the Victorian Government's ambition to digitise its government services including permissions.

Victorian Permissions Framework

Summary of assessment – [insert subject title]

[Template]

Context

- Current regulatory arrangements and problems prompting review.

Conclusions and recommendations

- Outline key findings and proposals for reform.

[Template]

Applying the Framework – Stages 1 to 3

Findings: Stages 1-3	Rationale
Stage 1 – Understand problems	
Stage 2 – Consider available tools	
Stage 3 – Select permissions	

[Template]

Applying the Framework – Stages 4 to 6

Findings: Stages 4-6	Rationale
Stage 4 – Design features	
Stage 5 – Administer effectively	
Stage 6 – Evaluate outcomes	

Appendix 2 – Additional information

A: Identifying harms

B: Risk matrix

C: Identifying policy objectives

D: Weighing up your options

2A. Identifying harms

ADDITIONAL INFORMATION

Promoting goods and controlling harms

Does it matter if we describe what regulators are doing as promoting 'goods' or controlling harms or 'bads'? It makes a difference operationally - and achieving the right balance is important.

Promoting goods

- Need to identify and understand broad range of causes and design and execute broad strategies to promote them
- Requires the construction of elaborate schemes

Controlling harms

- Need to identify and understand specific harms to design and execute targeted strategies to control them
- Requires thinking like a saboteur, seeking points of vulnerability, or unravelling 'knots' as outlined by Malcolm Sparrow in *The Character of Harms* (2008)
- Picking the right levels, and defining problems in the right dimensions, is an integral part of reducing harm. This involves examining patterns of repeated incidents.
- Focusing on controlling harms broadens choices for intervention. Do not choose preventative programs based on a priori preference – examine the nature of the harm.

Harm dimensions

- Understanding the beneficiaries of control and their vulnerabilities may be relevant (e.g. understanding who benefits from managing harms arising from lack of electrical and other safety in rooming houses).
- In some areas, including food safety and biosecurity, Victoria operates within a federation of jurisdictions that may impact on the permissions required in Victoria. For example, where national agreements define certain responsibilities, where there is a desire for national consistency or harmonisation, or another jurisdiction requires a permission to enable trade.
- If above point applies, this might be a cause for a permission in Victoria or dictate some aspects of the permission model and feature design.

Example of goods	Example of harms
Integrity	Corruption
Road safety	Traffic accidents
Health / wellbeing	Disease
Public safety	Crime
Clean environment	Pollution
Prosperity	Poverty
Education	Ignorance

2B. Risk matrix

ADDITIONAL INFORMATION

Consequence	Unlikely	Possible	Likely	Almost certain
	Likelihood			
	Not likely to happen	May happen at some time	Expected to happen at some time	Expected to occur often
Severe	High	High	Significant	Significant
Major	Medium	High	High	Significant
Moderate	Medium	Medium	Medium	High
Minor	Low	Low	Medium	High

Consequence

- Severe: Permanent or long-term serious harm with a large scale of impact. e.g.
  - impairment or loss of ecosystem system function
  - loss of human lives
  - widespread exposure to harmful substances
  - financial system failure
- Major: Serious harm but limited duration or scale of impact. e.g.
  - security of significant food source threatened
  - severe economic costs for small set of consumers
  - workplace injuries resulting in hospitalisation
- Moderate: Medium level of harm over long period or with large scale of impact. e.g.
  - local environment damage requiring remediation
  - consumers unable to access essential services
  - innovation will not be rapid
- Minor: Low levels of harm imposed. e.g.
  - slight increase in wait times for some services

Risk level	Description
Significant	Risks that are very likely to occur and have major or severe impacts.
High	Risks that are less likely to occur but have major or severe impacts or are almost certain to occur with lesser impacts.
Medium	Risks with minor to moderate impacts that have potential to occur.
Low	Risks that are unlikely to occur and will have minor impact.

2C. Identifying policy objectives

ADDITIONAL INFORMATION

Identifying policy objectives

Policy objectives provide guidance for the design of government intervention (and its subsequent evaluation). To do this, answer the following questions:

- What are the desired outcomes to be achieved? In other words, what does success look like?
- What is the desired change in behaviour that will deliver the desired outcomes? Consider how that change might affect other stakeholders.

Policy objectives may be designed to:

- promote informed choice
- address risks of misconduct
- ensure competence, quality or safety
- increase market competition
- protect common resources
- distribute public goods.

Multiple objectives should be identified separately. The connections between objectives, including any tensions between them, should be explored and considered in the design of responses - particularly where multiple instruments may be required.

If a permission scheme is warranted, Stage 4 will help design features to achieve objectives. For example:

- to ensure a level of product quality or safety, features might include requiring minimum competency, imposing specific conduct rules or mandating business attributes
- to address risks of misconduct, features might include conduct rules, enabling enforcement and providing avenues for redress are potentially relevant attributes.

Examples – Policy objective

Examples of policy objectives that act to guide the design of government intervention:

Policy objective: To promote standards of competence, quality or safety or reduce the likely consequences of poor standards.

In the dairy sector, the policy objective is to achieve safe food outcomes for the public, e.g. through supporting the development of industry competence.

Policy objective: To reduce the likelihood of participants in the sector engaging in

misconduct or the potential detriment that would arise from misconduct.

Gambling in casinos is controlled, among other reasons, to ensure that the management of operation of the casino remains free from criminal influence or exploitation.

2D. Weighing up your options

ADDITIONAL INFORMATION

Compare options across each stage of the Framework

At various stages in the Framework, you will need to make decisions on what the most appropriate option will be.

This is not a framework for regulatory impact statement. Big picture cost-benefit analysis is less relevant here. Instead, draw on concepts such as transaction costs.

Above all, use common sense and first principles. Detailed cost-benefit assessments will come later. Do enough to be broadly confident in the decisions you make.

Stages 1-3

High-level design questions:

- Is there a role for government? What are the policy objectives?
- What type of permission would best address the harm?

The answers to these depend on what will be effective as well as what will be most efficient. Efficiency can be explored first by identifying the pros and cons of alternative options.

Describe them qualitatively and put values on where possible. Draw on best practice cost-benefit concepts.

Stages 4-6

More detailed design questions:

- What are the practical costs and burdens that may be imposed?
- Can you do things more cost effectively by designing a feature another way?

Use simple examples and estimations that are sufficiently representative to help you.

Document version control

The Permissions Framework and two guides will be continuously improved as they are applied.

Version	Date	Description of changes
1	December 2023	Initial publication