

**DECEMBER 2023**

# **Victorian Permissions Framework**

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**Version 1**

# The Victorian Permissions Framework is a best practice approach to using permissions as a regulatory tool

## Why is permissions design and reform important?

**Licences, permits, registrations and other permissions are an important risk-management tool**

Victoria has more than 500 licences, permits and other permissions ('permissions') across more than 120 Victorian Acts.

**They should not create unnecessary costs or barriers to innovation**

Victoria needs to ensure that permissions:

- are necessary, proportionate, effective and efficient and used consistently across the Victorian Government
- enhance community wellbeing
- do not create unnecessary costs or barriers to innovation.

**Using the framework over coming years will help achieve Victoria's vision for a world-leading regulatory system**

The Victorian Permissions Framework should be used when developing new and reforming existing permissions.

### Vision

Victoria has a world-leading local and state regulatory system that makes it easy to do business and supports economic development and innovation, while improving community safety, health and environmental protection.

## What is the Victorian Permissions Framework?

- Principles and common terms
- Six-stage process to assess and reform existing permissions and design new permissions
- Resource that complements other Victorian guidance on regulation and regulatory practice

# Five key principles to best practice design and use of permissions

A new permission scheme should meet these principles. An existing one should be reviewed and adjusted 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.

# Follow six stages to select, design, administer and improve permissions

Support departments and regulators to determine whether permissions should be used and how to select the right type of permission. Support them to design, administer and evaluate the 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

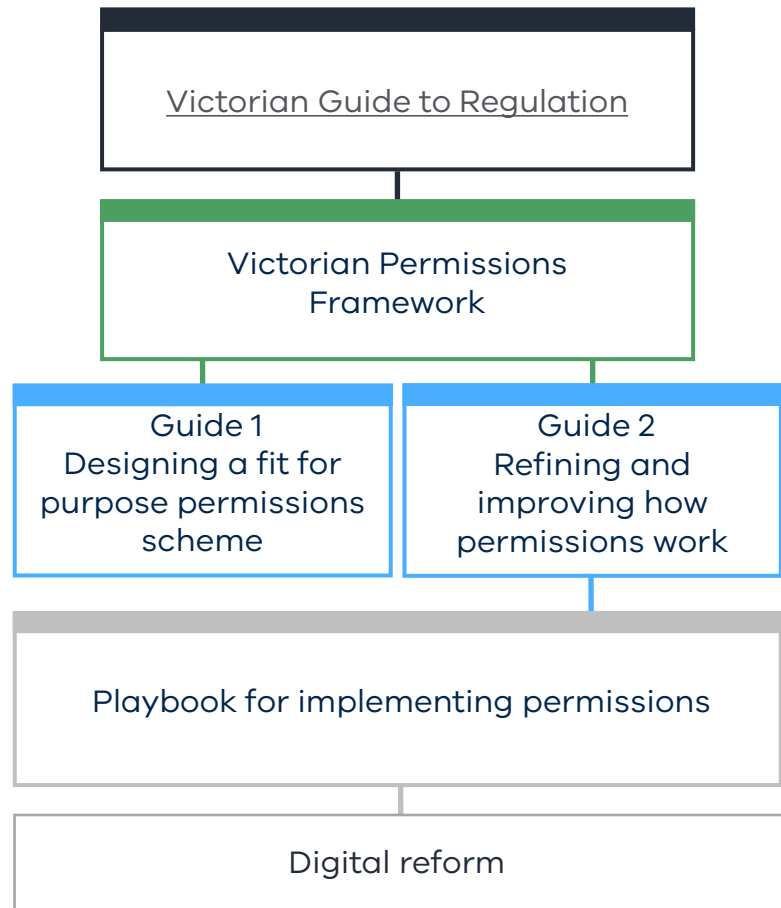
- Do monitoring and evaluation processes inform policy and regulatory improvement?

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

# 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.

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**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.

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**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

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**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.

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

# The Framework should be applied broadly and in consultation with key stakeholders

## Scope of application

The Framework should be applied broadly by policy makers and regulators to assess **existing permissions**, and to design **new and substantially reformed** permissions in legislation and regulations, as prompted in the Victorian [Guide to Regulation](#).

There is flexibility in applying the Framework where permissions:

- are required to meet **national commitments**. For example, Victoria is required to implement horticulture permissions for food safety by 2024.
- are issued in an **emergency context**. For example, permits were issued to bring beehives into Victoria to pollinate almonds while movement of beehives was otherwise prohibited.
- have a role in generating significant **state revenue**, such as gaming licences.
- are used to allocate **property rights**.

However, many of the principles and concepts will remain relevant.

## Engagement

It is important to **engage and consult** on any review and proposed change in regulation. This helps the Government understand and respond to a range of perspectives on issues and can help to promote community understanding of and support for proposals.

The development of regulatory frameworks must align with the **Victorian Government's Treaty obligations**. This includes engagement with the First Peoples Assembly of Victoria as early as possible in the process. Regulatory reforms should remain sufficiently flexible while consultation is completed.

- Engage Aboriginal people, organisations and businesses on the substance of permissions – including rules and how they are implemented and enforced.
- Includes engagement with **Traditional Owners** as rights holders, including those who are not formally recognised.

Refer to the [Victorian Guide to Regulation](#) for more information about engagement for regulatory reform.

# Key concepts

What are permissions and when should we use them?

# What are permissions?

A **permission** provides a person or entity the ability to undertake certain operations or activities that would otherwise be unlawful.

## Permissions are part of a regulatory toolkit

There are core characteristics common to all permissions:

- A **mandatory** requirement to apply, meet requirements and gain approval prior to commencement.
- Used to **exclude** unsuitable applicants and/or apply **conditions** commensurate with risk.
- Defined through various terms in legislation including **licence, registration and permit**, approval, authorisation and accreditation.
- **Distinct from** notifications, which do not require approval, and compliance requirements such as compliance certificates.

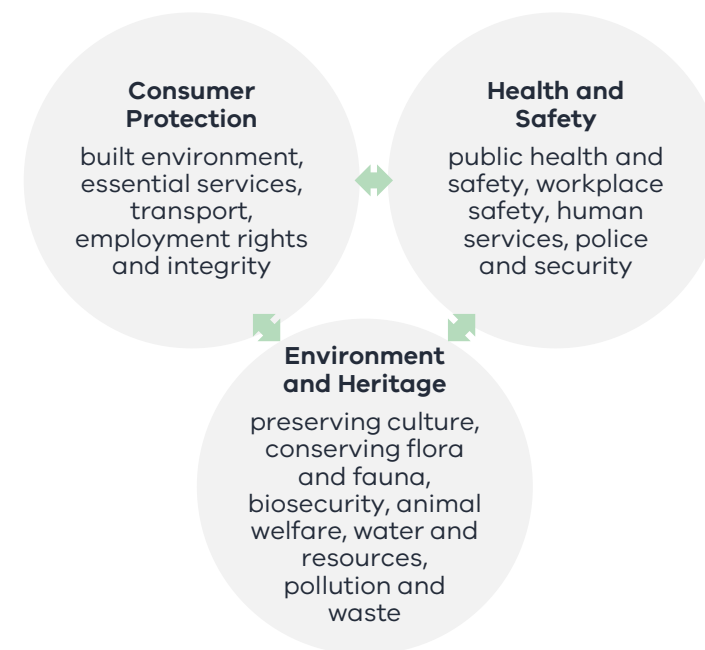
A **permissions scheme** comprises a set of permissions and sits within a broader regulatory scheme and context (such as legislation, regulations, standards, related state and national schemes).

Permissions may be the primary tool for managing risk in a regulatory regime. Or they can complement outcomes or performance-based regulatory models (such as a general duty of outcomes requirement) for higher risks.

See **Appendix** for glossary, features and examples of permissions.

## Their primary purpose is to manage harms

Regulation starts with understanding the risks of harm and whether these are substantial.



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



# What are the differences between permissions?

The Framework identifies three types of permissions that are differentiated by risk and nature of activity.

## Which approach in which circumstances?

Key concepts:

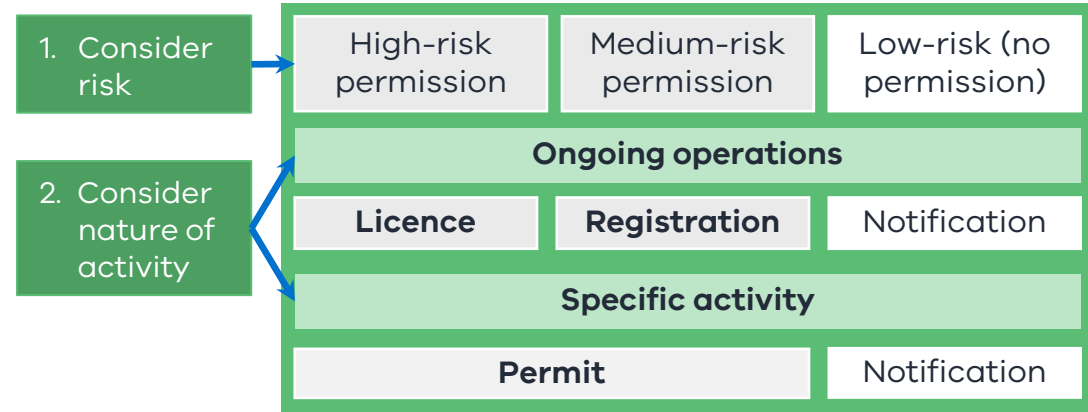
- Permissions impose different levels of control, which should be proportionate to the risks involved
- Permissions reflect the nature of the activity:
  - ongoing operations (e.g. meat facility, electrician)
  - discrete/specific activity (e.g. event)

Key terms:

- 1. Licence** – for high-risk, ongoing operations by a business or person. They can often be maintained indefinitely through renewal and ongoing compliance. Provides higher level of scrutiny and control.
- 2. Permit** – for moderate to high-risk activities, generally of a discrete nature, time and/or fixed location. The level of control can be designed to suit the activity and risk.
- 3. Registration** – for lower risk, usually ongoing operations with zero / lowest burden scrutiny and control.

**Notification** (not defined as a permission) - can be used for low-risk operations and activities where control is not required before commencement. It can be useful for collecting information to complement other parts of regulatory regime.

## Select permission type



## Iterate and refine options to target risk without undue burden

Consider:

- Sources of risk and how these vary between activities and entities
- Different control targets (4Ps: person + place, product, process)
- Combinations that address the drivers of risk while being simple enough to understand and operate
- Costs for businesses and regulator

# When permissions are and are not appropriate

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

Governments can manage risk many ways, including imposing general regulatory requirements on conduct that apply in all circumstances, without requiring permission.

### 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

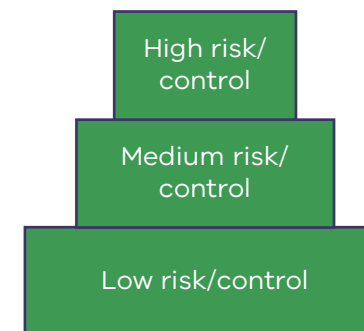
### Permissions are not required or warranted where:

- 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.

## When permissions are used, they should be risk-based

Permissions should be differentiated by risk and also seek to:

- have minimal prescription
- facilitate permission-holder control over their risk management.
- account for the nature of risks and capability of permission-holders.



# Reform existing permissions and design new permissions

Reform can reduce the burden imposed and ensure existing and new permissions are commensurate with risk.

## Permission reform and design involves balancing objectives

Optimal design and administration of permissions should balance:

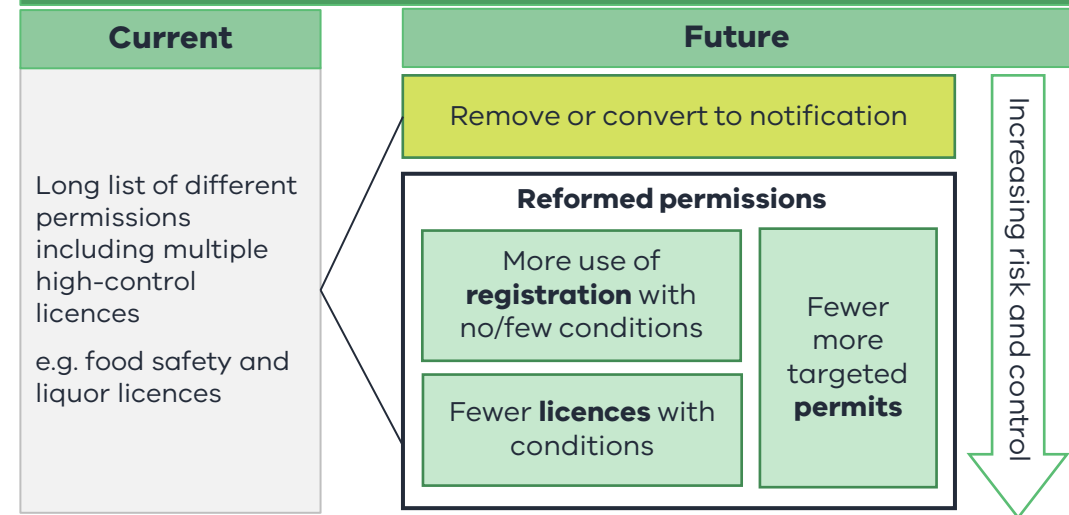
- Risk reduction based on who and what drives the harm and the benefits of reducing harm
- Costs of administering regulation
- Burdens imposed on businesses and barriers to innovation
- Practicality and simplicity.

Decisions involve trade-offs between these goals. Detailed impact analysis is required for major reforms.

## There are many ways to reduce burden

- **Remove** existing permissions where these are not warranted to control a harm
- **Reduce** to the lowest level and least burdensome features, including longer duration, sufficient to scrutinise activities and control risk
- **Convert** one-off permits to ongoing permissions where appropriate
- **Consolidate** existing permissions that address similar harms to reduce burden as businesses innovate and grow
- **Promote** consistent, proportionate and well-reasoned use of conditions by regulators, with increased flexibility in how compliance is met according to capability of regulated entity
- **Digitise** permissions that are optimally designed.

## Example of permission scheme reform



## Understand the context for reform

- The form, design and administration of Victorian permissions is dictated by primary legislation, regulations, regulator practice and sometimes national arrangements.
- Significant permissions reform (e.g. converting a permit into a notification) may require legislative reform.
- Benefits can also be achieved through refining existing permissions and improving regulatory practice.

# Applying the Framework stages

**The six stages to assess, design  
and operate permission schemes**

Examples and supporting tools

# Stage 1: Understand problems

## Is there a role for government intervention?

This stage prompts analysis of the harms and broader problem that is being addressed. Completing this stage identifies if there is a problem that warrants government intervention.

Steps to undertake	Findings and outcomes achieved	Applicable tools
Identify nature and extent of problem(s)	A problem with significant risks of harm has been identified. The problem is unlikely to be resolved in the absence of additional government intervention.	Guide 1: <ul style="list-style-type: none"> <li>• Harm domains</li> <li>• Risk matrix</li> <li>• Risk assessment examples</li> </ul>
Assess the risk of harm and ability to remedy harms		
Consider if there is a role for government and identify policy objectives		
		<a href="#">Victorian Guide to Regulation</a>

### Illustration – food safety pilot\*

A role for government intervention is justified given:

- there are substantial public health risks from foodborne pathogens (such as *E. coli*, *Salmonella* and *Listeria monocytogenes*)
- it is costly and difficult to remedy harms after contaminated products have been distributed
- the market is not able to manage risks sufficiently in the absence of intervention.

\* DTF partnered with Agriculture Victoria to apply the draft Framework to dairy and other primary production food safety permissions. The illustrations show how the framework steps can be applied.

## Stage 2: Consider available tools

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

This stage identifies whether the policy objectives identified in Stage 1 can be achieved without the use of permissions. Completing this stage ensures that solutions other than permissions have been considered.

Steps to undertake	Findings and outcomes achieved	Applicable tools
Consider if existing generic laws or non-regulatory responses would be sufficient	Policy objectives can only be practically achieved through the use of permissions <b>or</b> non-permission options are unreasonably more burdensome and/or costly than a permission.	Guide 1: <ul style="list-style-type: none"> <li>Regulatory and non-regulatory tools</li> <li>Circumstances where permissions are appropriate</li> </ul>
Identify whether general conduct requirements would be sufficient to meet the policy objective		
Consider whether additional tools are required to support cost-effective monitoring and enforcement		

#### Illustration – food safety pilot

- Permissions are appropriate to achieve the policy objective of minimising potential public health risks posed by unsafe or unsuitable dairy products as alternatives are insufficient.
- Generic laws cannot fully address the specific risks and issues associated with the production of dairy products. Non-regulatory responses and market incentives are unlikely to universally produce compliance.
- Specific regulation without permissions would be insufficient as there is a need to verify standards prior to operations commencing.

## Stage 3: Select permissions

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

**This stage identifies possible models of permissions that could achieve policy objectives. The completion of this stage will ensure lowest burden alternatives are considered in the selection of a permission model.**

Steps to undertake	Findings and outcomes achieved	Applicable tools
Identify potential sectors, activities, places or other targets for a permission	<p>Permissions scheme focuses on drivers of risk and uses least burdensome set of permissions, in combination with other tools, to achieve objectives.</p> <p>Scope of permissions is properly targeted, clear to implement and understood by regulated parties.</p>	<p>Guide 1:</p> <ul style="list-style-type: none"> <li>• three types of permissions</li> <li>• balancing factors</li> <li>• consolidation guide</li> </ul>
Select permission(s) to achieve policy objective		
Define how broadly the permission applies		
Consider opportunities to consolidate existing permissions		
Iterate to reach a scheme that most effectively controls risks and avoids unnecessary burden		

#### Illustration – food safety pilot

- Licences are an appropriate permission for dairy manufacturers due to the higher risks and level of assurance required, and because these are ongoing operations.
- There may be opportunities to consolidate dairy transport and distributor permissions to reduce burden for integrated processors.

## Stage 4: Design features

### What is the optimal mix of features of each permission?

This stage informs choice of features, such as exemptions, pre-screening, duration and fees. See Appendix A2 for full range of features. Completing this stage ensures that features manage risk proportionately, without unnecessary burden.

Steps to undertake	Findings and outcomes achieved	Applicable tools
Refine coverage - targets, exemptions and thresholds	Features are used cohesively, align with the wider regulatory regime and clearly link to the desired regulatory outcomes.	Guide 2: • Features of permissions
Design risk controls - optimise pre-screening requirements and conditions	Features do not overlap, contradict or limit the effectiveness of each other.	Fit and Proper Test Framework [Forthcoming]
Identify appropriate compliance and enforcement tools	Conditions provide a range options to ensure compliance and effective risk control.	BRV <a href="#">Towards Best Practice Guide for Regulators</a>
Set appropriate duration		
Consider fees and charges		

#### Illustration – food safety pilot

- Coverage of dairy farmers, manufacturers, carriers and distributors is clear and captures the key drivers of risks.
- Risk controls and compliance and enforcement tools are sufficient.
- A longer duration could be considered for some permissions.



## Stage 5: Administer effectively

### Will it operate effectively, efficiently and digitally?

**This stage prompts a regulator to administer permissions in a way that works to drive risk management at least burden for businesses and regulators.**

Steps to undertake	Findings and outcomes achieved	Applicable tools
Ensure the permissions journey is streamlined and user oriented, digital where possible	It is easy to apply for a permission and regulators can administer permissions efficiently	BRV <a href="#">Towards Best Practice Guide for Regulators</a>
Harness information to target compliance and enforcement	Digitisation has been considered.	<a href="#">Playbook for implementing permissions</a>
Education, complaints processes and other systems complement the permission scheme	The regulator uses the appropriate tools to monitor, support and enforce compliance in an effective and proportional manner.	Service Victoria standard product offering

#### Illustration – food safety pilot

Dairy Food Safety Victoria provides clear information for applicants. It offers an optional Dairy RegTech program that supports participating businesses to sustain food safety performance, reduce risk and reduce compliance costs. It has been working with Better Regulation Victoria to identify further opportunities to streamline and digitise its application processes.

## Stage 6: Evaluate outcomes

### How will you monitor and evaluate the scheme?

This stage helps ensure the permission scheme outcomes are easily assessed and understood. Completing this stage will allow for continual scrutiny and improvement of a permission scheme to ensure it is achieving the outcomes intended to address the initial problem or harms.

Steps to undertake	Findings and outcomes achieved	Applicable tools
Determine metrics to track effectiveness of scheme and capture relevant data	<p>Monitoring, evaluation, and reporting processes have been established to feed back into the regulatory system.</p> <p>Evaluation reveals issues and informs improvements to regulatory practice and policy design.</p> <p>Reform proposals are evidence based.</p>	<p><a href="#">Victorian Guide to Regulation</a></p>
Document evaluation methodology		
Determine reporting process for the permissions scheme		
Assess benefits and costs of alternative permission regimes before recommending reform.		

#### Illustration – food safety pilot

Dairy Food Safety Victoria completed a comprehensive funding model review in 2022. The review examined current and alternative requirements and services for licence holders. Evidence-based proposals for change were documented in a consultation paper.

# Appendix

A: Glossary

B: Features of Permissions

C: Common types of permissions

# A1 Glossary

Term	Definition
<b>Conditions</b>	Requirements on the conduct of an applicant that are tied to a permission. Can be universal, from a standard set or customised to the permission-holder.
<b>Features</b>	Permissions have features such as duration, exemptions, requirements and sanctions that can be tailored to support the objectives of the permission scheme.
<b>General conduct rules</b>	Rules that apply to every individual and entity within the scope of the regulation, not tied to a permission.
<b>Generic law</b>	Laws with a wide range of application across multiple industries. Examples include occupational health and safety and competition law.
<b>Non-regulatory responses</b>	Government interventions that are not enforced through regulation. Includes education, voluntary and incentive-based actions.
<b>Notification</b>	A requirement for an entity or individual to provide information but not to gain approval before acting. Not a permission. Can be used for low-risks where control is not required before commencement.
<b>Permission</b>	Approval to undertake activity that would otherwise be illegal. It imposes a requirement to provide information and gain approval from a regulatory authority before commencing an ongoing operation or undertaking a discrete activity. This can take the form of a licence, registration, permit or other approval from a regulatory authority.
<b>Permission scheme</b>	A set of permissions within a specific regulatory regime, e.g. liquor licences.
<b>Targets</b>	A permission can target people, products, places, or processes ('4Ps').
<b>Pre-screening</b>	Requirements that an applicant must satisfy before an application is granted. Includes but is not limited to Fit and Proper Tests.
<b>Regulation</b>	All government requirements including primary and subordinate legislation and other instruments
<b>Regulatory regime</b>	A government system that establishes, administers, supports and oversees control over specific activities.

# A2 Features of permissions

## Key considerations

- Features in the table can be designed to support a permission scheme's objectives.
- Features can be combined in different ways to achieve objectives, including balancing the use of pre-screening and conditions.
- Feature settings can interact with other elements of the regulatory regime – and regulators should account for these in determining their approach.
- Iteration of options is useful to refine where to set different features to target coverage and risk control.

	Feature	Description	Examples
Risk control: pre-screening	Duration	Period for which permission is provided	<ul style="list-style-type: none"> <li>• Frequency of renewal e.g. annual</li> <li>• Issued for 99 years</li> </ul>
	Coverage - thresholds and exemptions	How is the permission applied to a market or geographic region	<ul style="list-style-type: none"> <li>• Specific locations, specific species</li> <li>• Geographical boundaries</li> <li>• Business volumes or size</li> </ul>
	Competency requirements	What the applicant must be able to do or demonstrate	<ul style="list-style-type: none"> <li>• Qualifications, training, or experience</li> <li>• Tests, assessments, self-assessments</li> </ul>
	Mandatory attributes	Characteristics the applicant must have	<ul style="list-style-type: none"> <li>• Be honest and financially sound</li> <li>• Not have prior convictions</li> <li>• Hold another type of licence</li> <li>• Possess insurance</li> </ul>
Risk control: conditions	Reporting	Information an applicant or holder must provide	<ul style="list-style-type: none"> <li>• Mandatory information disclosure</li> <li>• Reporting</li> </ul>
	Conduct rules/ operating requirements	What a permission holder must do or not do (outcomes, duty or process-based)	<ul style="list-style-type: none"> <li>• Requirements for operations, activities, premises</li> <li>• Administrative obligations</li> </ul>
	Quantity restriction	Limits on quantity, share, or units	<ul style="list-style-type: none"> <li>• Limitations on the number of participants</li> </ul>
	Compliance and enforcement powers and penalties	Specific powers tied to a permission, including to issue penalties tied to the permission	<ul style="list-style-type: none"> <li>• Powers of entry</li> <li>• Pyramid – e.g. fines, increased regulatory obligations, revocation</li> </ul>
	Fees and charges	Cost recovery and pricing as a signal	<ul style="list-style-type: none"> <li>• Licence renewal fee</li> </ul>

# A3 Common types of permissions

<b>Common types:</b>	Sell or provide <b>products</b> or services in a market	Use a <b>process</b> or undertake an ongoing operation	Operate at a <b>place</b> or premises	Work in an occupation* ( <b>person</b> )	Undertake a discrete activity in a <b>place</b> (low risk)	Undertake a discrete activity in a <b>place</b> (high risk)
<b>Nature of activity</b>	<b>Operations</b>	<b>Operations</b>	<b>Operations</b>	<b>Operations</b>	<b>Specific activity</b>	<b>Specific activity</b>
<b>Victorian examples</b>	Sell/provide electricity, gas, liquor, second hand goods, funerals, motor cars, rooming houses	Remove asbestos, manufacture chemicals, produce meat, use engineered stone, employ children,	Manage a child care service, zoo, aged care facility, tow truck depot, pharmacy	Operate as a teacher, vet, plumber, engineer, building surveyor, estate agent, marine pilot, crane operator	Sell liquor at an event, hold a raffle, film on public land, drive an unregistered vehicle, erect a temporary structure	Build a house, develop a manufacturing facility, explore for a natural resource
<b>Common or dominant features</b>	Mandatory attributes (e.g. financial viability to be able to pay a refund)  Conduct rules (e.g. operating hours)	Mandatory attributes (e.g. Fit and Proper Test)  Sometimes competence (e.g. trained to remove asbestos)  Conduct rules (e.g. risk management systems or prescriptive standards)	Conduct rules require premises to meet standards.  May apply in conjunction with other permissions	Competency is primary feature (e.g. educational qualification)  Mandatory attributes in some cases (e.g. teacher Working with Children check)  Conduct rules for continuous learning	Few conduct rules where the risk is low, the scope narrow and duration short.  Sometimes issued automatically.	Conduct rules are a feature and may be standardised or custom.  Duration may be longer with a definite end date.

\* Some occupational permissions are part of a national mutual recognition program.

# Document version control

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

Version	Date	Description of changes
1	December 2023	Initial publication

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