

> Ancillary Uses

Fact Sheet

How you use your land must comply with your council's planning scheme. Sometimes, you may have a smaller, secondary part of your business, like an office attached to a warehouse. This is referred to as "ancillary use".

WHAT IS ANCILLARY USE?

In the context of planning, "ancillary" means the use is smaller, and secondary, to the predominant use on the land. Ancillary uses may not require planning approval or may be permissible where the use may be prohibited separately.

WHAT IS THE BENEFIT OF 'ANCILLARY' USES?

You may want to have a small component of your business operate in a way that ordinarily wouldn't be allowed in the zone – for example, a shop in an Industrial Zone. However, if the shop was merely 'ancillary' to the industrial use, it's allowed. For example, a small shop attached to a large warehouse storing wine, that sells a small amount of wine on certain days, may be ancillary, and therefore is not prohibited, nor does it require a planning permit.



HOW DO I KNOW IF SOMETHING IS DETERMINED AS ANCILLARY USE?

In broad terms, whether a use is classified as “ancillary” can be determined by asking yourself these questions:

- What is the main purpose of the use of the land?
- What is the appropriate planning term for the use of the premises?

Through a number of Victorian planning cases the following principles have been established in determining whether a use is ancillary:

- Comparative e.g. in the example above, is the shop 10% of the floor area of the warehouse?
- Degrees of intensity: what is creating activity on the site? Is it mostly the shop or is it the warehouse?
- The continued existence of a close association between the principal and ancillary uses. e.g., a café with separate owners sharing land with an industrial use is not ancillary. A bar associated with a brewery, however, may be.
- An appropriate measure of dominant use (though not in all cases) might be the comparison of receipts from sales of one of the uses compared with receipts from other sales.
- The relationship between the uses may also be assessed by reference to certain planning characteristics, for example, traffic and parking generation.

If a use is ancillary to the predominant use it may be possible for that use to continue even if prohibited. For example, a bottle shop in an industrial zone when it is part of a pub.

OBTAINING ADVICE

Your first step is to speak to your local council to find out how they would consider the uses on the land.

