

INTRODUCTION

The Buffer Area Overlay (BAO) can be used to prevent incompatible use and development within the buffer areas of industries and other uses with potential off-site impacts.

Purpose

The purpose of the BAO is to identify areas where there is potential for off-site impacts on safety or human health from industry, warehouse or other uses. The BAO also ensures that use and development within buffer areas is compatible with potential off-site impacts.

Principles

The following key principles underpin application of the BAO:

- Policy and zoning are the primary and preferred tools within the planning system for ensuring land use compatibility.
- Overlays and associated planning scheme maps not only identify land, but also apply requirements that need to be met.

Application

The BAO will be available to apply to land uses that are generally compliant with relevant regulations and standards, and pose potential unintended off-site impacts on human health or safety.

Evidence base

Application of the BAO to land uses must be based on evidence – demonstrating the types of potential impacts, the spatial extent of those impacts (the buffer area) and appropriate requirements for land use and development within the buffer area.

Implementation

Implementation of the BAO is through schedules to the overlay. These are informed by the evidence base. To support appropriate application of the overlay, certain information must be submitted with proposals to apply the BAO.

① COMPLIANCE

The use must be generally compliant with regulations and standards relating to off-site impacts or land use compatibility, such as those of EPA Victoria and other regulatory authorities.

Meeting this criterion

Supporting information or reports demonstrating that the land use is generally compliant with regulations and standards relating to off-site impacts or land use compatibility must be submitted with a proposal to apply the BAO. This occurs when applying for authorisation to prepare an amendment. The written views of EPA or other relevant authorities must also be submitted. Proponents should seek advice early from EPA or other relevant authorities about compliance of the land use.

What does 'generally compliant' mean?

'Generally compliant' refers to uses that are meeting relevant regulations and standards, but cannot fully eliminate the potential for unintended off-site impacts. The BAO does not duplicate or replace existing regulations and standards relating to off-site impacts or land use compatibility (see sample list below). The BAO identifies areas where, despite compliance with these regulations and standards, unintended off-site impacts may still occur and land use and development needs to be controlled.

Sample list of relevant regulations and standards (not exhaustive):

- Licences issued under the Environment Protection Act
- Planning and building permits
- State Environment Protection Policies
- Siting, design, operation and rehabilitation of landfills (Landfill BPEM)
- Dangerous Goods and Occupational Health and Safety regulations
- *Pipelines Act*, regulations and Australian Standard AS 2885
- Work authorities and work plans under the *Mineral Resources (Sustainable Development) Act*.

②

IMPACTS

How to interpret impacts

For the purposes of applying the BAO, potential impacts on safety or human health can be interpreted broadly. Off-site impacts on human health can sometimes occur due to emissions typically considered to have amenity impacts, such as odour, dust and noise, depending on a number of factors.

The BAO does not address lower level amenity impacts, i.e. those that are primarily annoyances or inconveniences and unlikely to have significant impacts over time. Although it is not the role of the BAO to manage these impacts, relevant environmental legislation and regulations still apply along with planning mechanisms, such as the Planning Policy Framework, zones and Clause 53.10.

What if I am not sure whether the land use has potential impacts on human health?

It is acknowledged that there can be uncertainty when determining whether a land use has impacts on human health, or only amenity, especially where noise, dust or odour are the primary issues. In these cases, proponents should consider the following factors:

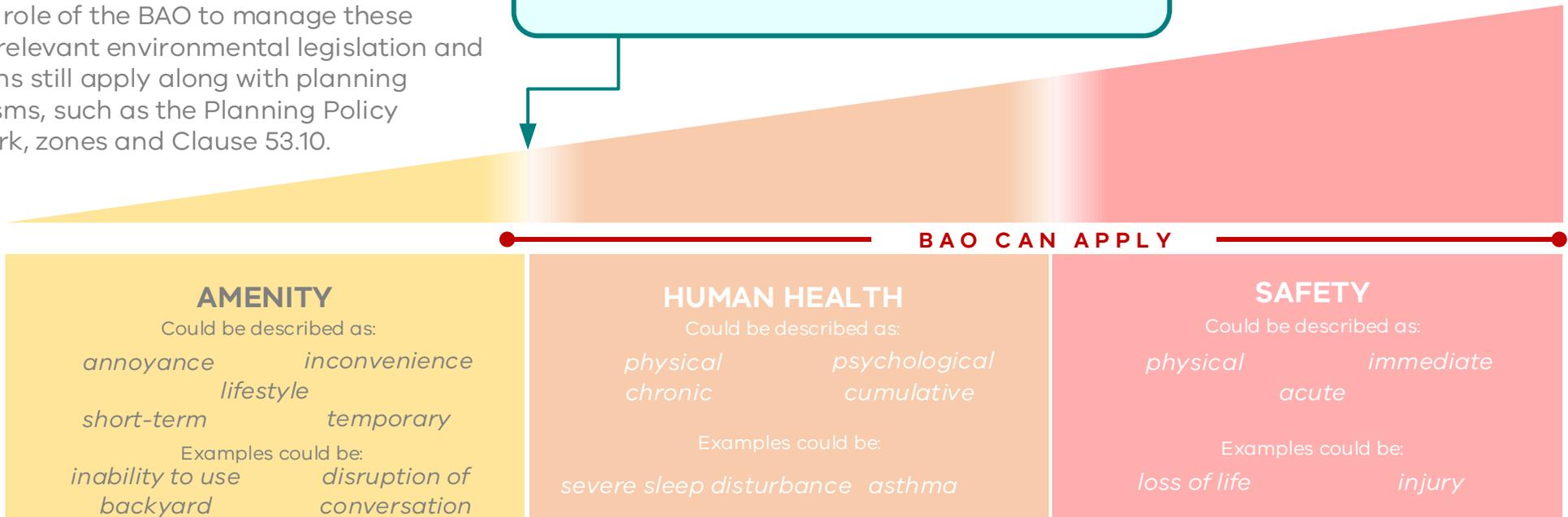
- How often the impact occurs (frequency of impacts)
- How long the impact lasts (duration of 'events')
- How obvious the impact is (is odour particularly strong, noise highly intrusive or dust emission high?)
- The character or nature of the impact (e.g. highly noxious odour, tonal or humming noise or very fine dust or damaging particulate emissions)
- What the experience of a person exposed to the impact would be (how sensitive is the receiving environment to the impact?).

Proponents should seek advice from EPA and/or other relevant authorities about the outcomes of this consideration.

The use must have potential for unintended off-site impacts on safety or human health.

Proponents should discuss their proposal with the council early and seek advice from EPA and/or other relevant authorities about all potential unintended off-site impacts of the land use.

TYPE OF IMPACT



③ ASSESSMENT

An assessment of the potential off-site impacts must be undertaken to inform preparation of the BAO schedule and decision on the amendment.

The assessment must demonstrate:

- ✓ The potential of the land use for **off-site human health or safety impacts**, such as blast, hazardous air pollutants, noise or odour.
- ✓ The **spatial extent** of relevant potential impacts, (reflecting current or approved operations), i.e. the buffer area.
- ✓ Based on potential impacts, what future **land uses** need to be managed or prohibited in the buffer area.
- ✓ Based on potential impacts, what future **buildings and works** need to be managed or prohibited in the buffer area.
- ✓ Based on impacts, how future **subdivision** needs to be managed or prohibited in the buffer area.

The spatial extent of the buffer area determined through the site-specific assessment should take into account variables such as prevailing weather conditions, topography etc. Default distances such as those found in EPA guidance material or Clause 53.10 are not appropriate for this assessment.

Information about what land uses, buildings and works and subdivision need to be managed or prohibited within the buffer area will inform requirements in the BAO schedule.

If certain land uses, buildings and works or subdivision require a permit due to potential off-site impacts within the buffer area, information or assessments may need to be provided by permit applicants to support responsible authorities in making a decision.

The assessment should also advise:

- ✓ What **information** will need to be provided with permit applications to inform decision-making, i.e. application requirements.
- ✓ Whether the **views** of any agencies are required to inform decision-making.
- ✓ What **compatible land uses** are to be encouraged within the buffer area.

Proponents should seek advice from EPA and/or other relevant authorities about the findings and recommendations of the completed assessment

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PREPARING AN AMENDMENT

The BAO schedule is comprised of the following, as appropriate, informed by the completed assessment:

- ✓ **A detailed statement of risk** for the buffer area that identifies the potential off-site human health or safety impacts of the land use.
- ✓ **Up to five objectives** to be achieved for the buffer area.
- ✓ **Requirements** for use of land, subdivision and buildings and works.
- ✓ **Application requirements.**
- ✓ **Exemption from notice and review.**
- ✓ **Decision guidelines.**

Preparation of an amendment to apply a BAO schedule is based on the completed assessment.

Known requirements for use and development should be built into the schedule to the overlay where possible, rather than left for referral.

For example, rather than referring applications for use of land proposals that will always receive a 'no' response from referral authorities - prohibit them through the schedule to the overlay.

If certain land uses, buildings and works or subdivision require a permit due to potential off-site impacts within the buffer area, information or assessments may need to be provided by permit applicants to support responsible authorities in making a decision.

Required information when applying for authorisation

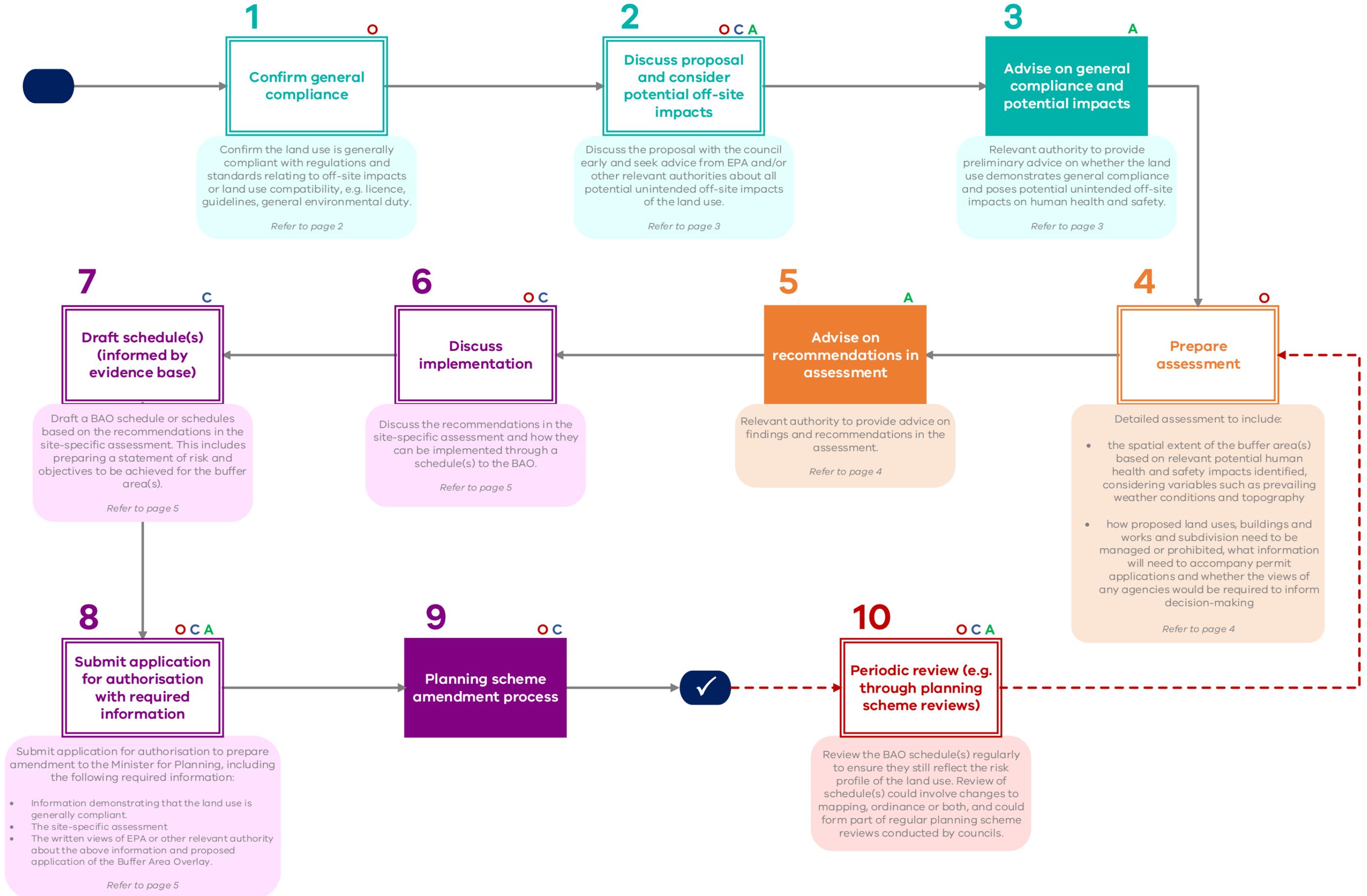
In applying to the Minister for Planning for authorisation to prepare a planning scheme amendment to apply the Buffer Area Overlay to a land use with potential off-site impacts, a municipal council, Minister or public authority must provide the following information to the Minister:

- ✓ Supporting information or reports demonstrating that the land use is generally compliant with regulations and standards relating to off-site impacts or land use compatibility.
- ✓ An assessment demonstrating the potential of the land use for off-site human health or safety impacts, the spatial extent of potential impacts and appropriate restrictions on land use and development in the buffer area.
- ✓ The written views of the Environment Protection Authority or other relevant authority about the above information and proposed application of the Buffer Area Overlay.

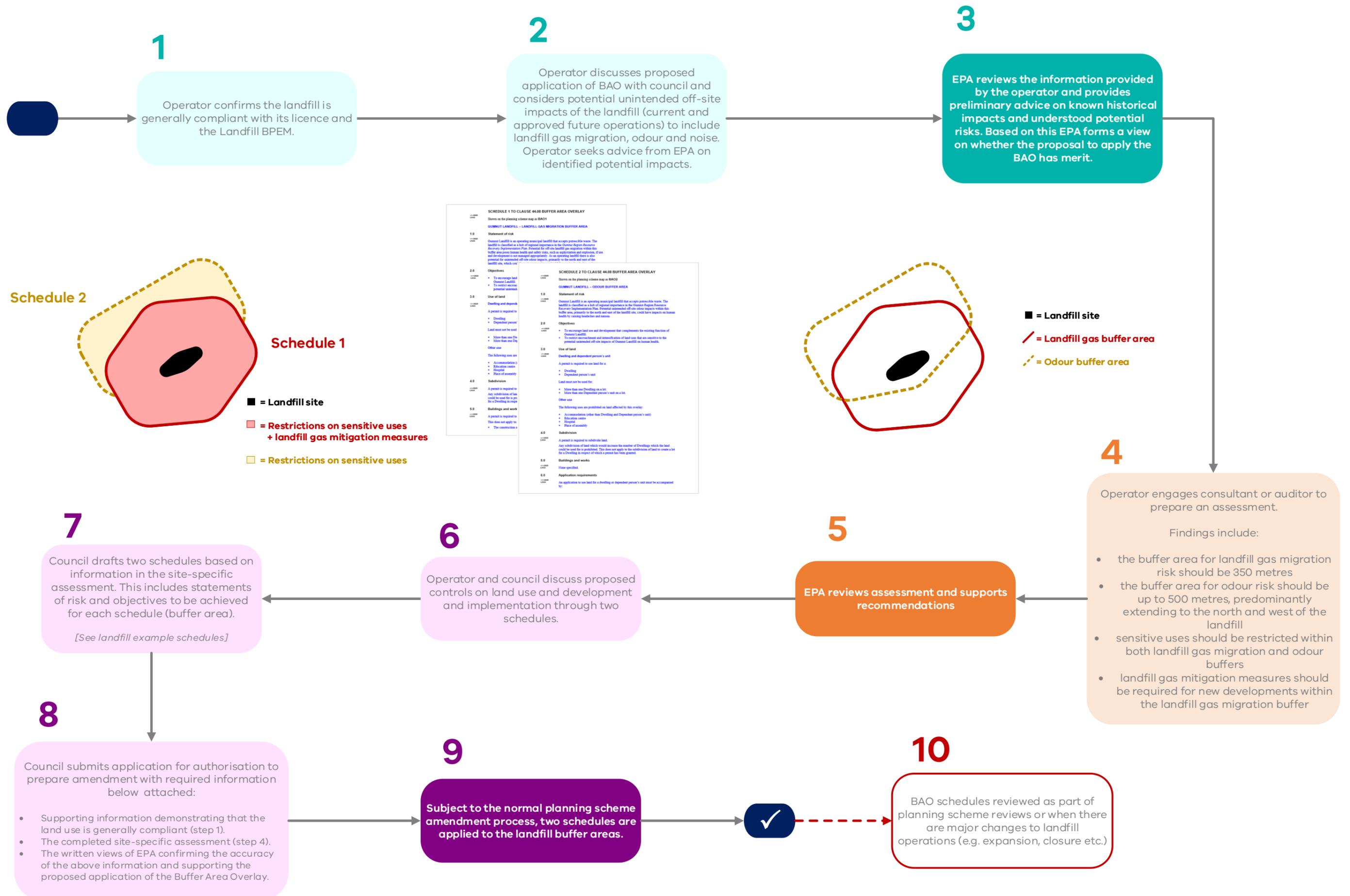
This information will provide evidence to support appropriate application of the Buffer Area Overlay.

BAO - STEP BY STEP

O = Operator C = Council A = Regulatory authority



BAO - STEP BY STEP (LANDFILL SCENARIO)



FAQs

Can the BAO be used to manage the impacts of proposed future operations?

The BAO can be used to manage existing operations, and future operations that have been approved but not yet commenced. Approved operations include those approved through licences, permits etc.

Can the BAO be used to manage impacts from more than one site?

The BAO can be used to manage impacts from more than one site in an area or precinct. The same criteria applies as with individual sites. An assessment that considers each site is still required to demonstrate the relevant human health and safety impacts and appropriate land use and development responses within the buffer area(s). Cumulative impacts should also be considered as part of this assessment, where relevant.

Can more than one schedule be used to cover different impacts from a single site?

Multiple schedules can be used to cover different impacts from a single site where those impacts require different land use or development responses (see landfill example). Each schedule needs its own statement of risk that reflects the potential impacts in that buffer area.

Can the BAO be used to manage the impacts of licensed pipelines?

The BAO will be able to be applied to licensed pipelines in certain circumstances. Energy Safe Victoria is currently developing a standardised approach for the application of planning controls. Future proposals to apply the overlay for pipelines will be informed by this approach.

Can I still use the Environmental Significance Overlay (ESO) and other tools to manage buffers?

The BAO is a purpose-built tool to manage buffers through the planning system, where the criteria for its use are met, and replaces the use of ESOs for buffer purposes. Existing ESOs that have been used to manage buffers can remain in place, although in some cases replacement with a BAO may be desired.

It is important to note that planning policy and zoning remain the primary and preferred tools within the planning system for ensuring land use compatibility. The BAO applies requirements for use and development within the buffer area of land uses that meet the criteria for use. Issues of land use conflict and compatibility will exist in areas not covered by the BAO.