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Date: 1 December 2017
Our Ref: Reforming the Victoria
Planning Provisions

Reforming the Victorian Planning Provisions
Department of Environment, Land, Water and Planning
PO Box 500
EAST MELBOURNE VIC 8002

Dear Sir / Madam,

RE: Reforming the Victoria Planning Provisions

Thank you for the opportunity to provide a submission regarding the proposed reforms to the Victoria Planning Provisions (VPP).

The City of Ballarat supports simplifying and improving the operation of the planning system, to make it the most efficient and responsive in the country. As detailed in our Municipal Strategic Statement (MSS), Ballarat is a city of communities; home to many diverse peoples, each contributing their own culture, ideas and aspirations to Ballarat's distinctive identity.

Ballarat encompasses an urban core with a diversity of suburbs (historically separate Shires and Boroughs) and an historic CBD, outlying townships and a large agricultural base across approximately 740 square kilometres. In 2014, Ballarat had a population of almost 100,000 people. It is forecast to grow to approximately 160,000 by 2040 making Ballarat one of Australia's fastest growing inland cities. The capacity for Ballarat to grow in ways that respond to and depart from the distinctiveness, value and appeal of our city and of each local area and township is of paramount importance to the Ballarat community (Ballarat Imagine 2013, Today, Tomorrow, Together: The Ballarat Strategy 2015).

As a regional centre, Ballarat encompasses major retail, health and education facilities, servicing a catchment that extends far beyond its municipal boundaries. People from surrounding rural areas, particularly to the west, are attracted to Ballarat for employment and education, as well as for its significant history, character and lifestyle. Ballarat also attracts many people from the Melbourne metropolitan area, including those seeking affordable housing options with good access to employment opportunities, and variety of lifestyle choice. People also come to Ballarat as visitors and Ballarat is a key tourism location in the distinctive Central Victorian Goldfields region. As such, the City of Ballarat assesses over 1,000 planning permit applications with an estimated development cost totalling over \$300 million annually.

It is acknowledged that the existing VPP has led to an increasingly long and complex planning scheme, which can result in complexity, duplication, delays and uncertainty in the planning

system. The City of Ballarat supports the current review, which aims to improve and simplify these planning controls. City of Ballarat Council Officers have reviewed the proposed substantial changes to the Victorian Planning Provisions as detailed in the *Reforming the Victoria Planning Provisions: A discussion paper (October 2017)*.

Council Officers are supportive of the concept of restructuring the Victoria Planning Provisions and would welcome the opportunity to work with the Department to expand on and work through the details of the proposed changes.

Notably, the City of Ballarat is very well placed to be a pilot / model Council for working through the proposed changes as Ballarat has a recently updated MSS that is founded on best practice participatory community engagement and strategic planning, and is also currently advancing a review of the planning scheme. In addition, our city is leading the way globally through the development of new participatory and interdisciplinary local area planning models, which includes testing planning tools for highly localised implementation across the municipality.

There are several matters in relation to the proposed changes which the City of Ballarat would like to bring to the Department's attention:

Proposal 1: A simpler VPP structure with VicSmart assessment built in

- The restructuring of the Particular Provisions under the proposed categories is strongly supported.
- The integration of VicSmart provisions into the Particular Provisions and Overlay schedules is strongly supported.
- It is suggested that:
 - General Provisions may be renamed “Administrative Provisions” to make the intent of these provisions clearer.
 - Consideration be given in the new structure to positioning “Decisions Guidelines” and “Incorporated and Background Documents” in a separate ‘Rules’ category (separate from General Provisions)
 - The proportional assessment process must consider the policy significance of a proposal as well as the scale of the proposal. Careful consideration must be given in determining what is considered a “simple proposal” and therefore suitable for consideration under “one-stop-shop” provisions.
 - Graphics showing permit pathway triggers are included in the VPP.

Proposal 2: An integrated planning policy framework

- Currently, the MSS has been developed as the overall land use strategy for the City of Ballarat. The MSS is read in conjunction with the adopted Council Plan which provides the overall corporate direction for the City. The MSS is regularly reviewed through a process involving considerable community engagement. The Local Planning Policy Framework (LPPF) gives the responsible authority an opportunity to state its view of a planning issue, determine localised planning policies and provide guidance on local interpretation and application. The LPPF provides guidance to decision making on a day-to-day basis and can help the community to understand how the responsible authority will consider a proposal. The LPPF enables the appropriate application of policy over time to achieve the desired outcome of the planning scheme; however a dismantling or removing of local policies, and a removal of the overarching strategic direction of the municipality, is not supported.

- As detailed in our MSS, Ballarat has a rich natural, cultural and historic heritage with, for example, over 10,000 properties in Heritage Overlay areas. Ballarat's community considers the heritage and historic character of Ballarat as its most valued feature, and advocates for the retention of these elements into the future (Ballarat Imagine 2013, Today, Tomorrow, Together: The Ballarat Strategy 2015). Ballarat's heritage resources must be protected, conserved and enhanced for their social, conservation, cultural, economic and tourism potential, as well as to ensure that what makes Ballarat distinctive is not lost. Council does not want to see a weakening of local heritage policy. For example, introduction of permit exemptions, even for minor works, can have unintended consequences, as we have witnessed in Ballarat. We would welcome an opportunity to test scenarios prior to the implementation of any change to the planning system relating to heritage.
- A restructure of the MSS and LPP to integrate and align these policies with their associated State policies is strongly supported to improve the readability and useability of the scheme. The simplification of the MSS, and clearer and simpler structure for policies is also supported.
- New policy rules of entry and drafting rules are strongly supported.
- Tailored metropolitan and regional policy for each scheme is strongly supported.
- Staff at the City of Ballarat would appreciate the opportunity to work with DELWP to review the thematic structure of the current SPPF and proposed PPF to ensure that our local policy matters are adequately supported by State policy. For example, it would be good to reconsider the naming and position of:
 - Environmental Sustainability / ESD – environmental considerations may be nested under this heading, including energy and resource efficiency.
 - Landscapes – may be a separate theme.
 - Health and Wellbeing – may be a separate theme.
 - Historic Places and Heritage – may be a separate theme.
- Currently, like many regional municipalities, the City of Ballarat utilises the Infrastructure Design Manual *IDM* which has been adopted by Council but is not an incorporated document or reference document within the Ballarat Planning Scheme. A State policy which gives weight to any adopted IDM would remove the need for individual municipalities to individually incorporate their respective IDM's and this is worthy of consideration.
- The transition to an interactive and intuitive online planning scheme will be extremely helpful in enabling people to more effectively navigate and understand the requirements of the scheme.
- It would be valuable to include graphic representation of the policy framework and interrelationships.
- Reference documents – it is agreed that there is confusion over the role of reference documents, and consideration of these in decision making can be very challenging due to varying format, scope and structure of recommendations. It would be valuable for the Department to undertake further discussions with Councils to explore ways to consider these more consistently, e.g. a template summary sheet detailing implications for land use planning. Changing the name to 'Background Documents' with a hyperlink in each scheme is supported. See the comment above regarding the position of these documents in the restructured VPP.

- The revision of the LPPF into the new format will put significant strain on Council resources. Details as to what support will be given to Councils to assist in translating the LPPF into the new VPP format is required. Additional resources and training would be very helpful.
- Introducing code-based assessment provisions for simple proposals to support small businesses, industries and homeowners is supported in principle; however the success or failure of introducing a code-based assessment system will depend on the details and specific requirements of the proposed code. No details of what the code-based assessment may entail have been provided, so any informed discussion of such a proposal is not possible given the limited information provided. Whilst reducing subjective planning assessments and creating a code-based system would provide greater clarity and certainty for permit applicants, it would be imperative that such a system could achieve acceptable planning outcomes. The City of Ballarat strongly recommends further detailed consultation and 'testing' of any proposed code-based planning system with Councils and relevant stakeholders prior to implementation.
- It is not clear how Overlay considerations will be incorporated into the proposed codified pathway.
- As suggested, where the code is not entirely satisfied, the VicSmart pathway would not apply and the application would be assessed under the normal merit based pathway. This is strongly supported and it is suggested that a trigger should be considered to ensure policy compliance.
- Embedding the existing VicSmart provisions into the Zones, Overlays and Particular Provisions (as relevant) will assist in integrating VicSmart with the rest of the Planning Scheme and this is supported.
- Expanding the gamut of VicSmart planning applications is supported in principle, provided VicSmart applications are clearly supported by relevant checklists, application requirements and decision guidelines. Consideration should also be given to providing a standardised delegate report template for VicSmart applications to enable timely and efficient processing of these applications.

Proposal 3: Assessment pathways for simple proposals

- Proportionality in assessing applications is strongly supported, however the criteria for determining suitability for prescriptive assessment rather than performance-based assessment needs to be carefully considered, and must be policy driven.
- Guidance and information to assist users during transition will be essential.
- More information about how the proposed 'one-stop-shop' provisions for simple application types is required. Whilst the concept is innovative, the correct implementation and requirements would be essential. Insufficient information has been provided to ascertain whether this would be a positive change.
- Additional information is required to clarify the proposal to introduce planning standards to cater for temporary 'pop-up' retail or cultural activities in vacant spaces in commercial areas. This matter is currently often dealt with through Council's Local Law process. Any proposed embedment of these 'temporary' activities into the planning system would need to demonstrate how this would improve the status quo.

- Current applications for multiple dwellings on a lot require an assessment against ResCode (Clause 55) and current applications for dwellings on very small lots (under 300sqm) require additional assessment against ResCode (Clause 54). The discussion paper appears to propose the introduction of reduced assessment requirements and/or permit exemptions which might exclude some small lot developments or multiple dwelling applications from needing to be assessed against the full provisions of ResCode at Planning Permit stage. Whilst this may appear to be beneficial to the permit applicant, it is noted that if ResCode is not assessed at planning permit stage, it must be assessed at the Building Permit stage. Whilst the planning permit process allows multiple ResCode provisions to be varied in the one application, it is noted that the Building Permit process requires any variation to ResCode to go through a separate 'report-and-consent' process through Council's Building Department, with a separate fee for each variation required. As such, delaying the ResCode Assessment at Planning Permit stage and instead implementing it at Building Permit stage may appear to speed up processing through faster planning permit assessments, but may result in further delays and expenses for the developer at Building Permit stage.
- More information about what the proposed secondary dwelling (granny flat) standards would entail is required. Council is concerned that this may lead to sub-standard housing. No details have been provided as to how this would be implemented in the discussion paper. The City of Ballarat strongly recommends further detailed consultation and testing of any proposed secondary dwelling (granny flat) standards prior to implementation.
- The Department's acknowledgement of the additional pressure and constraints placed on Councils as a result of the tight (10 day) timeframe of the VicSmart application process is appreciated. Due consideration of the resourcing implications of expanding the extent of VicSmart applications will be required to ensure they are realistic and achievable, possibly including an expansion of the 10-day timeframe. A graduated system of timeframes for VicSmart applications (based on complexity of the application) may be a way to address this, provided it is implemented in an easily interpretable and logical way.

Proposal 4: Smart planning scheme drafting

- Development of a 'VPP Users Manual' that is regularly updated, and that refines and streamlines Practice Notes is strongly supported. Council officers suggest that the term "business rules" be reconsidered and an alternative term be applied to describe the guidelines and practice rules for drafting, e.g. the legal term "practice rules" may be a more suitable term.
- The establishment of a business unit dedicated to assisting with drafting is supported; however the City of Ballarat considers it essential that local policy and amendments be drafted in-house. It would be helpful if staff in the unit could advise and provide editorial support.
- Whilst it is understood that clear, concise and precise policy is essential in achieving a streamlined and efficient planning system, the primary driver must be achieving policy outcomes, and it is considered that the integrity of local content is key and must not be compromised.
- Whilst the drafting business unit may be centralised, the City of Ballarat greatly values the support of regional staff and considers this an essential service. Regional planning

requirements are distinct from Melbourne, and metropolitan areas more generally, and an understanding of the nuances of regional planning are essential to support our particular land use planning activities. It would be good to consult separately with regional cities and regional DELWP staff to determine the best model for providing this drafting support.

Proposal 5: Improvements to specific provisions

- Given the broad scope of the planning scheme review, consideration could be given to whether the current regulations regarding liquor and gambling incorporated into the Planning Scheme at Clauses 52.27 and 52.28 benefit from the planning permit process, or whether these matters would be better dealt with solely under their respective separate licensing requirements pursuant to the *Liquor Control Reform Act 1998* and the *Gambling Regulation Act 2003*.
- A review of the car parking requirements at Clause 52.06 to take into consideration factors such as proximity to public transport, proximity to (or location within) an activity centre and other relevant factors when calculating the car parking requirements for different uses would be beneficial. The City of Ballarat would welcome the opportunity to work with the Department to review the current regulations with the view of implementing a locational matrix which allows variation of the set car parking requirements.
- Council supports the formalisation of existing buffers around industries with amenity impacts (for example around landfills, water treatment plants etc) to enable these facilities to be readily identifiable and to prevent land use conflicts within the buffer area.
- Details as to what commercial uses are proposed to be made as-of-right (Section 1) in a Mixed Use Zone, as well as details surrounding any proposed conditions to be imposed on any such commercial uses is required.
- A review of the land use definitions at Clause 74 to reflect current language practises and to transpose the planning jargon to plain English is supported and will improve the readability of the Planning Scheme for end users. It is also recommended that the uses listed at Clause 52.10 *Uses with Adverse Amenity Potential* are reviewed to enable this provision to be more easily interpreted for customers and industries alike.

Other matters

- The City of Ballarat support the new principles of a modernised VPP, but would like to emphasise that the Policy and Outcome Focused principle is of primary importance and should be a key driver of all decision making.
- A reduction in fees or fee exemption should be implemented for energy efficient application types to provide greater incentives for green energy for the public (eg. solar panels and water tanks in a Heritage Overlay).
- The City of Ballarat considers it important to undertake consultation with community and the development industry to review and test proposed changes.

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