

Enquiries: 1300 216 513



**NORTH EAST  
CATCHMENT  
MANAGEMENT  
AUTHORITY**

Level 1, 104 Hovell Street  
Wodonga VIC 3690  
P.O Box 616  
Wodonga VIC 3689  
Ph: 1300 216 513  
Fax: 02 6043 7601

Website: [www.necma.vic.gov.au](http://www.necma.vic.gov.au)  
Email: [necma@necma.vic.gov.au](mailto:necma@necma.vic.gov.au)  
ABN 53 229 361 440

24 November 2017

Smart Planning Team,  
Department of Environment Land Water and Planning  
Via email: [smart.planning@delwp.vic.gov.au](mailto:smart.planning@delwp.vic.gov.au)

**Regarding: Reforming the Victorian Planning Provisions**

Thank you for the opportunity to provide a submission in response to the 'Reforming the Victorian Planning Provisions' discussion paper released dated October 2017.

The North East Catchment Management Authority (the Authority) welcomes the reform and supports the principles of a modernised Victoria Planning Provisions (VPP) and the intent of the five proposals:

1. A simpler VPP structure with VicSmart assessment built in
2. An integrated planning policy framework
3. Assessment pathways for simple proposals
4. Smarter planning scheme drafting
5. Improve specific provisions

The following comments are provided on the proposals based on the sub categories:

**1. A simpler VPP structure with VicSmart assessment built in**

**1.1 Restructure and reform the particular provisions**

The restructure and reform of the provisions is fully supported. The Authority is interested in being involved in the detail around the establishment of performance standards and requirements as well as overlap with other legislative process. There could be benefit in having a particular provision developed to address catchment, waterway and floodplain protection, this could ensure alignment with state catchment management, waterway and floodplain policy. Comments on this have also been made under 2.3 Expanded Policy Themes.

**1.2 Integrate VicSmart into appropriate particular provisions and overlay schedules**

The Authority has not been involved with VicSmart to date. It is understood from feedback that the process of VicSmart remains onerous despite the intent so better integration is considered to be a positive step forward. Looking

further forward, VicSmart could also look to introducing automatic on the spot permits for works within fixed parameters with a standard issue planning permit.

### 1.3 Consolidate all administrative provisions

The proposed consolidation of all administrative provisions is fully supported.

## 2. An integrated planning policy framework

### 2.1 Integrate state, regional and local planning policy

Integration of the SPPF and the LPPF is supported. It has been identified that there is limited regional content in the current frameworks. Introducing regional context is a great opportunity for alignment between state and local Council, and the drafting of this content should involve both DELWP and Catchment Management Authorities who have responsibilities with regional plans and strategy.

### 2.2 Simplify the Municipal Strategic Statement (MSS)

Simplifying the MSS is supported and considered a good strategic outcome. The Authority believes this will enable it to be more regularly reviewed and updated.

### 2.3 Expand policy themes

The policy themes are a welcomed approach. The Authority believes that the proposed new structure can be further aligned and consolidation in the environmental themes. The difference between *12 Environmental and Landscape Values*, *13 Environmental risks and amenity* and *14 Natural Resource Management* and their subsections is not clearly or consistently applied. For example Biodiversity is not in section 14 Natural Resource Management but has been put in section 12. Another example is *13.03 Floodplains*, and *13.03-1 Floodplain management* which is actually about flood protection, and falls under the general heading of Environmental Risks and amenity. It would be more appropriate to rename this consistently akin to bushfire (rather than Bush Management) so that it reads *13.03 Floods* and *13.03-1 Flood planning strategies and principles*

One theme that is missing is *Implementation and management of Rural Drainage* this should fall under 14.1 Agriculture theme which it directly related to and can then align with the (draft) Victorian Rural Drainage Strategy.

A suggested revised structure and wording has been shown below to better align and distinguish between the three areas and their intent.

14 Natural resource management  
12.01 Biodiversity  
12.01-1 Protection of biodiversity  
12.01-2 Native vegetation management  
14.01 Agriculture  
14.01-1 Protection of agricultural land  
14.01-2 Sustainable agricultural land use

14.01-3 Forestry and timber production  
*New Implementation and management of Rural Drainage*  
14.02 Water  
14.02-1 Catchment planning and management  
*12.03 Waterways and water bodies*

12.03-1 River corridors  
12.03-3 Lakes and wetlands  
14.02-2 Water quality  
14.02-3 Water conservation

**12 Environmental and landscape values**

**12.02 Coastal areas**

12.02-1 Protection of coastal areas  
12.02-2 Appropriate development of coastal areas

12.02-3 Coastal Crown land

12.02-4 Bays

12.03-2 Yarra River protection

**12.04 Alpine areas**

12.04-1 Framework for planning alpine resorts

12.04-2 Sustainable development in alpine areas

**12.05 Significant environments and landscapes**

12.05-1 Environmentally sensitive areas

12.05-2 Landscapes

**13 Environmental risks and amenity**

**13.01 Climate change impacts**

13.01-1 Climate change and natural hazards

13.01-2 Coastal inundation and erosion

**13.02 Bushfire**

13.02-1 Bushfire planning strategies and principles

**13.03 Floodplains**

13.03-1 ~~Floodplain management planning strategies and principles~~

**13.04 Soil degradation**

13.04-1 Use of contaminated and potentially contaminated land

13.04-2 Erosion and landslip

13.04-3 Salinity

**13.05 Air quality**

**13.06 Amenity**

13.06-1 Amenity

13.06-2 Noise abatement

## **2.4 Create a clearer and simpler structure for policy making**

In order to create a clearer and simpler structure it will be important to ensure appropriate resourcing for Councils and referral agencies to be able to input into the development of these important processes.

## **2.5 Set new rules and guidelines for writing policy**

New guidelines are welcomed, and it is hoped that these will be developed in time so that they can be used and tested in the redrafting of the Provisions.

## **3. Assessment pathways for simple proposals**

### **3.1 Embed a VicSmart assessment pathway in appropriate particular provisions and overlay schedules**

The Authority supports the proposal to restructure particular provisions and overlay schedules to identify exempt use and development and VicSmart applications. The Authority requests that it be consulted in this process to ensure that codes and exemptions do not inadvertently impact on natural resources or increase risks such as flooding.

### **3.2 Introduce new code-based assessment provisions for simple proposals to support small business, industry and homeowners**

The Authority supports the concept of new code based assessment provisions. However, further consultation is required to ensure consideration of the effectiveness of this as a tool, to ensure that the changes value add to streamlining processes, and to also ensure that they do not inadvertently impact on natural resources or increase risks such as flooding.

## **4. Smarter planning scheme drafting**

### **4.1 Create a new VPP user manual**

The Authority welcomes the user manual, and recommends that this should be complimented with general training sessions and more tailored training for LGAs and referral agencies.

### **4.2 Establish a business unit dedicated to VPP and planning scheme amendment drafting**

A dedicated business unit has been trialled before, with mixed degrees of success. At the regional information sessions on the reform, concerns were raised about the drafting role proposed, and the potential loss of planning expertise in regions with this approach. There was also concern expressed about the time delays and difficulties with local policy development due to disconnect with staff based in Melbourne. A dedicated business unit for overseeing the VPP, and for providing assistance and review is important. However, consideration of the need for strong regional links and appropriate support for LGAs is required in implementing this approach.

### **4.3 Create an online Victorian planning library**

A single online repository is a fully supported by the Authority.

## **5. Improve specific provisions**

### **5.1 Improvements to specific provisions**

The Authority agrees with the review of all zones and zone schedules having regard to the intent outlined in the discussion paper

The Authority supports the objective to reduce complexity and make the overlay roles more distinct. The Authority is however concerned with the increase of as of right uses in zoned land where overlays (such as Floodway Overlay, Land Subject to Inundation Overlay, Environmental Significance Overlays) apply. Further consultation would be required to ensure:

- that increasing the opportunity for permit exemptions does not increase flood risk or environmental impacts.
- that these exemptions or as of rights for zones do not conflict with the overlays.

The proposed reliance on building permit processes needs to be further explored, to determine if it is an appropriate tool or whether it would need amendment in order to function effectively in bridging the policy. As an example it currently does not consider setbacks from waterways, or have access or understanding of natural recourse. How would state planning provision policy be picked up through a building permit for an extension of additional bedrooms on a house towards an active waterway in flood prone area in a declared water supply catchment? Gaps would be associated with the suitability of the septic system, the increased risk to life in a flood by increasing the number of residents, the risk to the house by it's proximity to a waterway or the environmental impact to the waterway feature?

### **Floodway Overlay**

In relation to the Floodway Overlay, further consultation would be required to:

- Ensure that increasing the opportunity for permit exemptions does not increase flood risk.
- Determine how improving access to flood levels can be best achieved.
- Explore how decisions on whether a design mitigates flood risk can be determined.

### **Land Subject to Inundation Overlay –**

The Authority supports the proposal to update reference to the 1% Annual Exceedance Probability (AEP) flood event. Further consultation would be required to:

- Understand the implications of the proposal to include the protection of drainage assets in the overlay purpose, including how the proposal aligns with the State Drainage Strategy which is expected to be released shortly.
- Ensure that increasing the opportunity for permit exemptions does not increase flood risk
- Discuss how a development's impedance of floodwaters can be best determined
- Ensure that increasing the floor area of building extensions before a permit is required does not detrimentally impact on the passage and storage of floodwaters or increase property damage
- Discuss an appropriate process for determination and regulation of minimum finished floor levels.

### **Special Building Overlay –**

The Authority supports the proposal to revise the name of the overlay to better reflect its purpose. Further consultation would be required to:

- Understand the implications of the proposal to include the protection of drainage assets in the overlay purpose, including how the proposal aligns with the State Drainage Strategy which is expected to be released shortly.
- Discuss how appropriate minimum flood levels below which buildings and works are permit exempt can be determined
- Ensure that increasing the opportunity for permit exemptions does not increase flood risk
- Discuss whether the proposal that flooding from council's overland flow paths can be assessed solely by council would apply across the state or be confined to Melbourne Water's catchments, and how it may need to be modified for state-wide application.

### **Urban Floodway Zone –**

The Authority supports the proposed review of the zone to identify whether planning control over flood prone areas could be simplified.

### **Earth and Energy Resource Industry**

Minimising conflict and overlap with the Work Authority process is supported by the Authority. There is however some concern about the proposed new sub-clause to Clause 52.08 to specify that permits cannot be issued with conditions that duplicate or conflict with an approved work plan. Work Plan development often does not involve local government until after the Work Plan has been endorsed, this means that community raised issues through the public notification process undertaken by Council can raise new issues and in some cases may require changes to the endorsed plan. There does need to be a way to deal with this, but it is not clear that this clause will resolve these matters or result in Council being unable to influence change. Further review of this provision is required.

### **Referral and Notice Provisions –**

The Authority supports the proposal to review the classification of referral agencies as ‘recommending’ authorities or ‘determining’ authorities. Further consultation should be undertaken to determine where policy current seeks the views or comments of an Authority how this will be translated into Clause 66 to ensure that relevant expertise can continue to be provided. The North East CMA would prefer to support appropriate exemptions in the provisions rather than having a number of agreements with local councils.

### **5.2 Update the Definitions section of the VPP**

The proposed updating of definitions is supported, it is important that where possible the terms used also reflect definitions within legislation for consistency and to avoid confusion between different agencies.

### **5.3 Regularly review and monitor the VPP**

The proposed regular review, monitoring and timely updating of the VPP is welcomed and it is agreed that the responsibility of this would be suitable for a centrally based business unit dedicated to the VPP.

**Yours sincerely,**

A redacted signature block consisting of two black rectangular boxes. The top box is smaller and positioned above the bottom box, which is longer and extends further to the right.