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30 November 2017

Smart Planning Program
Department of Environment, Land, Water and Planning

Via email: smart.planning@delwp.vic.gov.au

Dear Sir/ Madam,

Moyne Shire Council Submission – *Reforming the Victoria Planning Provisions*

Council has considered the *Reforming the Victoria Planning Provisions* discussion paper, released for consultation by the Smart Planning program until Friday, 24 November 2017.

Council adopted this submission at its Tuesday 28 November 2017 Council Meeting.

Council supports the Victorian Planning Provision (VPP) reform and agrees that the principal changes to introduce a new integrated version of the Planning Policy Framework (PPF) and consolidate planning scheme, will provide for a more consistent and user focused planning system.

However, Council retains outstanding reservations for the reform, particularly around the implementation process, funding, budgetary and resource constraints, a potential loss of locally specific planning content, and the need for further consultation following a review of associated State planning controls and specific provisions.

Council makes the following principal submissions on the VPP reform discussion paper, in combination with additional key comments and issues regarding the five (5) proposals.

- 1. Council generally supports the VPP reform package prepared by the Smart Planning program for the Victorian Government.**
- 2. Council requests that DELWP be made responsible to prepare a policy neutral rewrite of the State Planning Policy Framework and the Local Planning Policy Framework into the proposed integrated Planning Policy Framework, as it has the budget and holds the technical expertise to complete this work consistently across the State.**

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3. **Council requests that the State Government provide funding assurances to balance the significant staff and financial impact that a Local Planning Policy Framework translation into the new format will have on Council.**
4. **Council requests that the Smart Planning program or Minister for Planning provide more information and guidance on the timeframe and process involved in the transition to the new Planning Policy Framework.**
5. **Council requests that DELWP via the Smart Planning program undertake further consultation with councils following a review and preparation of updated State planning controls and specific provisions.**

The following specific comments and submissions are raised by Council in response to each of the five (5) VPP reform proposals:

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

- 1.1 Restructure and reform the particular provisions
 - 1.2 Integrate VicSmart into appreciate particular provisions and overlay schedules.
 - 1.3 Consolidate all administrative provisions
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Council comments:

Council supports the principle to simplify the VPP structure with inbuilt VicSmart provisions, raising the following matters for consideration:

- Integration of the VicSmart provisions within the particular provisions and overlay controls is a good concept for 'one stop' assessment, but the reform seems to overlook zones also including VicSmart provisions and should be considered through this process.
- Consolidation of the administrative VPP provisions within the General Provisions sections is supported and will substantially reduce the number of sections within planning schemes, helping to make them more user-friendly for all stakeholders.
- Further work needs to be completed through this reform to consider the drafting and operation of these provisions, including 'road testing' of the controls with councils, to alleviate any operational issues once the changes have been implemented.

Proposal 2: An integrated planning policy framework

- 2.1 Integrate, state regional and local planning policy
 - 2.2 Simplify the Municipal Strategic Statement
 - 2.3 Expand policy themes
 - 2.4 Create a clearer and simpler structure for policy making
 - 2.5 Set new rules and guidelines for writing policy
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Council comments:

Council generally supports the draft PPF, but raises the following comments and issues for further consideration:

- Council submits that significant staff and financial resources, not currently budgeted for, will be required to translate the Local Planning Policy Framework (LPPF) into the new PPF structure. DELWP with a \$25 million budget must carry out a policy neutral translation. This will provide a consistent State-wide application.
- Council requests that more information be provided on the timeframes and process involved in the transition to the new PPF.
- Moyne Shire, like many rural councils, comprises a large number of small / medium size townships and settlements. A new subclause should be included within Clause 11.03 (Planning for places) for Planning for Townships and Rural Settlements, as opposed to just 'Local Places'.
- Council encourages the establishment of new rules and guidelines for policy writing with a clear land use and development focus, but requests that updated standards and guidelines be developed and released for review before the PPF change are implemented.
- Concern exists that the drafting framework for planning policy may be excessively strict and could limit the inclusion of LPPF content within the new PPF.
- Council requests that DELWP provide both metropolitan and rural examples of how the LPPF will be translated into the new PPF format through practical examples of planning scheme adaptation.

Proposal 3: Assessment pathways for simple proposals

- 3.1 Embed a VicSmart assessment pathway in appropriate particular provisions and overlay schedules
 - 3.2 Introduce new code-based assessment provisions for simple proposals to support small business, industry and homeowners
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Council comments:

The proposal to integrate the VicSmart provisions within the controls of the VPP is a sensible idea and one that is supported by Council. However, it is unclear why zones have been excluded from including integrated VicSmart provisions, when State-wide VicSmart controls currently apply for zones. This appears to be a shortfall.

The concept of introducing 'codified assessment provisions' into the VPP for simple use and development proposals also has merit, but a lack of information on how the controls will operate and the types of applications which may be suitable, makes it difficult for Council to provide constructive comment.

Council does query why new 'codified assessment provisions' would be introduced separate to VicSmart, which currently operates in this manner with application requirements and exemptions from notice and review.

Establishing another assessment process for 'other' simple use and development proposals will further complicate the planning system, at odd with the aims of the Smart Planning program.

Proposal 4: Smarter planning scheme drafting

- 4.1 Create a new VPP user manual
 - 4.2 Establish a business unit dedicated to VPP and planning scheme amendment drafting
 - 4.3 Create an online Victorian planning library
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Council comments:

Council supports the reform of this proposal, noting that what is presented is essentially 'core business' of DELWP, on behalf of the Minister for Planning, and will result in the presentation of more effective and consistent planning schemes.

It is logical that DELWP create a VPP user manual to establish clearly defined rules for the drafting and preparation of planning scheme amendments. As this is a core function of DELWP, Council is surprised a business unit for this currently does not exist.

Council supports advancements towards a digital first based VPP and planning system, and considers there to be substantial benefit in developing an online planning directory, enabling councils, practitioners and applicants to access current versions of relevant planning documents. This proposal does not provide any significant benefit to Council, and should not see substantial expenditure from the Smart Planning budget.

Proposal 5: Improve specific provisions

- 5.1 Improvements to specific provisions
 - 5.2 Update the Definitions section of the VPP
 - 5.3 Regularly review and monitor the VPP
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Council comments:

Council generally supports the proposal to simplify and update the specific provisions and planning controls within the VPP, but raises the following comments and issues for consideration:

- Removal of the need for a buildings and works permit for a dwelling extension or associated outbuilding within rural zones, and leaving this for assessment under the building permit process is an issue. Council accepts that this form of development triggers the need for many simple permit applications, however, the types of land uses and amenity impacts within rural zones are vastly different to residential zones. By just applying standards through the building permit process may not adequately deal with siting and potential amenity impacts from agricultural or other intensive uses.
- Allowing primary produce sales to occur as a Section 1 Use (as of right) within the Farming Zone does not adequately deal with the potential impacts from that use on adjoining land, particularly to agriculture, including car parking, access, hours of operation and noise. A 'one size fits all' approach would not support proper and orderly planning.
- Council supports a review to the Heritage Overlay to improve the clarity and understanding of descriptions and definitions, and to create permit exemptions for minor buildings and works, including small pergolas and verandas.
- Council supports modification of the Floodway Overlay to improve access to flood levels required for development to ensure drawings are compliant prior to submitting a planning permit application. This change may require further consultation with catchment management authorities.

- Council supports review of the Land Subject to Inundation Overlay to update the purpose of the overlay and link permit triggers to the purpose, but submits that changes to permit exemptions and code assessment proposals for building floor heights, should be discussed in detail with catchment management authorities.
- Both the Floodway Overlay and the Land Subject to Inundation Overlay should be reviewed to see if there is appropriate rigour to be applied to coastal inundation from sea level rise.
- A review of Clause 52.06 (Car Parking) is timely and supported by Council, however, it must be noted that this particular provision should not be Melbourne-centric. Car parking is also a matter commonly dealt with by rural councils who do not have strong public transport systems, which triggers the need for many permit applications. Council has undertaken a *Port Fairy Car Parking Strategy* and will benefit from improved and clearer car parking provisions.
- Council supports review of Earth and Energy Resources Industry and consolidation of the applicable particular provisions (Clause 52.08 and 52.09). Updated planning controls and clear establishment of the role and function of the planning system alongside the Work Authority system will assist with planning decision making.
- Council supports a review of Clause 52.10 (Uses with Adverse Amenity Potential) to refer to the current guidelines *Environmental Protection Authority's Recommended Separation Distances for Industrial Residual Air Emissions (2013)*, and establish 'reverse amenity' matters for sensitive uses within industrial buffers, which will practically assist with planning decisions.
- Council supports a review of Clause 52.19 (Telecommunications Facility) to update the 2004 code of practice and clarify permit triggers and exemptions, considering the need for this necessary infrastructure to be provided.
- Council supports review of Clause 52.27 (Licensed Premises), which will review the role and function of planning in liquor licensing, as the primary responsibility of the Victorian Commission for Gambling and Liquor Regulation.
- Council strongly submits that within Clause 52.32 (Wind Energy Facility) and the General Provisions of the VPP; the Environment Protection Authority (EPA) must be designated as responsible authority for wind farm noise, including monitoring, testing and on-going compliance. Councils lack the resources and technical expertise for this complex role, which should sit with the EPA.

- Council queries the proposed review of Clause 52.37 (Post Boxes and Dry Stone Walls) to examine the feasibility of removing this provision and identifying historic sites through mapping and protection under the Heritage Overlay. Extensive mapping work may be required to identify post boxes and dry stone walls to enable their inclusion in the Heritage Overlay, which shifts strategic planning responsibility on Council and will have a staff and financial resource impact. This should be a State driven project.
- Council supports review of the residential development and subdivision provision of Clause 54, 55 and 56 to clarify the relationship of design standards and objectives, and requests that DELWP provide councils with an opportunity to review and provide comment any proposed changes in detail.
- Council raises that DELWP should consider review of the permit exemption at Clause 62 for rainwater tanks of less than 4,500L, which is now outdated and too small when considering modern sustainable development and water sensitive design principles.
- Council supports review of Clause 66 (Referral and Notice Provisions) to designate this section of the planning scheme for these formal processes, streamline referral provisions and to designate referral authority status.
- Council strongly supports a review and update of the Clause 72 (General Terms) and Clause 74 (Land Use Terms), deleting obsolete and outdated terms and updating the list of terms to provide greater consistency with their common meaning.

Conclusion

Council makes this submission with its 'in principle' support for the VPP reform released by Smart Planning. Council adopted this submission at its Tuesday 28 November 2018 Council Meeting.

Council provides input on these reforms taking into account the most effective land use and development planning process outcomes for the municipality.

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Kind regards,

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