



GLEN EIRA
CITY COUNCIL

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Submission in response to *Reforming the Victorian Planning Provisions – A discussion paper*

November 2017

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Submission in response to *Reforming the Victorian Planning Provisions – A discussion paper*

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INTRODUCTION

This submission provides Council's feedback on the five proposals contained in the discussion paper and other matters. In general, Council is supportive of changes to the VPP that provide for improved processing time, greater certainty of requirements and enhanced usability of the planning system.

Council however considers that ongoing consultation is required throughout the drafting of a number of proposals identified in this submission.

PROPOSAL 1: A SIMPLER VPP STRUCTURE WITH VICSMART ASSESSMENT BUILT IN

PROPOSAL 1.1: RESTRUCTURE AND REFORM THE PARTICULAR PROVISIONS

Council supports reforms to the VPPs that improve useability and provide clearer assessment pathways. This is addressed in greater detail below.

PROPOSAL 1.2: INTEGRATE VICSMART INTO APPROPRIATE PARTICULAR PROVISIONS AND OVERLAY SCHEDULES

Integrating the VicSmart provisions into the applicable control rather than as separate set of assessment criteria would enable greater useability for planning users. This is supported by Council.

PROPOSAL 1.3: CONSOLIDATE ALL ADMINISTRATIVE PROVISIONS

Council supports reforms to the VPPs that improve useability.

PROPOSAL 2: AN INTEGRATED PLANNING POLICY FRAMEWORK

PROPOSAL 2.1: INTEGRATE STATE, REGIONAL AND LOCAL PLANNING POLICY

Council is in support of the overarching change to integrate state, regional and local policy. This change will provide a clearer link between state and local policies, and will make the policy section of planning schemes easier to navigate. This will also achieve a consistent structure across planning schemes, which is currently lacking.

PROPOSAL 2.2: SIMPLIFY THE MUNICIPAL STRATEGIC STATEMENT

The form of MSS varies across planning schemes. Providing a clearer role and distinction for 'context and vision' and policy sections will be beneficial and is likely to reduce repetition in planning schemes.

The discussion paper notes that "The Act requires each council to review its LPPF no later than one year after the council plan is approved, which is generally every four years. Despite this

requirement, LPPFs are not being regularly updated.” Council considers that it would be beneficial for State Government to engage with Councils on the barriers to regularly reviewing planning schemes, including local policies. Supporting Councils in satisfying this requirement could be a positive outcome of the *Smart Planning* program.

PROPOSAL 2.3: EXPAND POLICY THEMES

While a structured policy framework is welcome, Council has concerns regarding policy themes that are outside of the proposed structure, either because they are locally specific issues or new policy issues that may emerge over time. The discussion paper acknowledges that the VPPs have been slow to reflect and respond to changing circumstances. There is a concern that a stringent framework will not assist in providing a more agile and responsive policy environment. Council queries how ‘exceptional’ policy circumstances might be accommodated in the more structured policy framework proposed.

Council is seeking an understanding of the process by which existing content will be translated into any new format. It would be of great concern if this were undertaken with a ‘top down’ approach without consultation with Council, as this may risk losing essential content from the Glen Eira Planning Scheme. Council considers that policy translation must be undertaken in partnership with councils, and must be demonstrably policy-neutral. The discussion paper states that “reformed PPF themes and subsequent LPPF translations to the new framework may involve some policy change”. If this is to be the case, allowance should be made in the process for appropriate community engagement to be undertaken where there is a departure from current policy.

The inclusion of regional policy themes in the planning schemes only to which they apply is considered to be beneficial. Council considers that this approach could extend to removing policy themes such as ‘Alpine Areas’ from metropolitan planning schemes and other content shown in the proposed Table of Contents that is only applicable to some localities (such as ‘Ports’ and ‘Coastal Areas’). This would assist in streamlining and reducing the size of planning schemes.

Council has identified the following potential gaps in the proposed policy framework Table of Contents:

- Environmentally Sustainable Design
- Institutional and non-residential uses in residential areas
- Student Housing
- Child Care Centres
- Universal Design / Access for All

PROPOSAL 2.4: CREATE A CLEARER AND SIMPLER STRUCTURE FOR POLICY MAKING

In principle, consistent headings and structure of policies will improve clarity and useability, and will provide greater guidance for local government. Council seeks an opportunity to provide feedback on proposed policy templates and the process by which these will be implemented.

PROPOSAL 2.5: SET NEW RULES AND GUIDELINES FOR WRITING POLICY

A clear set of rules and guidelines for policy writing is welcome. To ensure the integrity of Council's existing planning framework, *translation* guidelines would also be welcome. As noted above (Proposal 2.3), councils should have extensive involvement in the translation of existing content into a new policy framework.

In a number of instances, the discussion paper acknowledges the need for education and training resulting from the proposed changes. Council supports this view, particularly with regard to new rules and guidelines for policy writing. Council considers that training and professional development program would be necessary to address the correct drafting of policy provisions, their use in decision making and how they interact with other provisions. Such a program should extend to VCAT and Planning Panel members to ensure consistency across the various levels of decision making.

PROPOSAL 3: ASSESSMENT PATHWAYS FOR SIMPLE PROPOSALS

PROPOSAL 3.1: EMBED A VICSMART ASSESSMENT PATHWAY IN APPROPRIATE PARTICULAR PROVISIONS AND OVERLAY SCHEDULES

Integrating the VicSmart provisions into the applicable control rather than as separate set of assessment criteria would enable greater useability for planning users.

PROPOSAL 3.2: INTRODUCE NEW CODE-BASED ASSESSMENT PROVISIONS FOR SIMPLE PROPOSALS TO SUPPORT SMALL BUSINESS, INDUSTRY AND HOMEOWNERS

A codified process for simple applications is supported in principle. These application types are commonly caught up in bureaucracy with layers of controls that can be frustrating to navigate for the planning user. Simplified processes that provide for quick decision making, particularly for small business and less experienced users of the planning system is welcomed.

PROPOSAL 4: SMARTER PLANNING SCHEME DRAFTING

PROPOSAL 4.1: CREATE A NEW VPP USER MANUAL

A user manual to support the drafting and application of planning provisions would be beneficial. Existing Planning Practice Notes vary significantly in purpose, form and level of detail. For instance, they may address how a provision should be *applied*, what it may *cover*, or how it should be *used*, to

different degrees. The extent to which practice notes have been reviewed and updated is also inconsistent and of some concern. The discussion paper specifically notes that *Planning Practice Note 59 – The Role of Mandatory Provisions in Planning Schemes* is out of step with Government policy and requires review. Council considers that this matter in particular requires urgent attention.

To add value to the process, any new VPP user manual must remain contemporary and reflect current practice. Sufficient resources are necessary to ensure that this is an up to date and useful tool.

PROPOSAL 4.2: ESTABLISH A BUSINESS UNIT DEDICATED TO VPP AND PLANNING SCHEME AMENDMENT DRAFTING

Council supports the dedication of resources to improving outcomes in drafting and management of planning schemes. This must however be done in a holistic fashion across DELWP. Any new business unit must be empowered within the department and must work with other business units such as statutory systems, and policy teams. In the past, it has been evident that DELWP teams tasked with the development of new provisions (such as the reformed zones) and the teams tasked with approving local implementation of such provisions were not working collaboratively. This left Council's to 'figure out' how to draft zone schedules, Rescode variations, and so on with no clear guidance from State Government. The drafting of zone schedules therefore differs vastly across planning schemes, both in formatting/drafting and in actual content that has been approved.

It is unclear at this stage what the exact role of the proposed business unit would be - whether Councils will continue to draft planning scheme provisions in accordance with a user manual, to be reviewed by this business unit; or whether this unit would 'do the drafting' at Council's direction. Collaboration is essential and any new business unit must have sufficient resources to enable appropriate levels of engagement with councils in drafting of policy and controls. It is essential for Councils to have some input into how this process will work including establishing the roles of both Council and State Government. Such a process must also have regard for the role of Planning Panels Victoria (in providing drafting review and advice) and the Minister's office (in providing final approval).

Consideration of how the business unit would interact with changes made throughout the planning scheme amendment process is also required. The planning scheme amendment process has several 'points of review' where content can be changed, such as in response to submissions or Planning Panel recommendations, or changes made by the Minister on approval. This process can be messy and, in some cases, lacks transparency.

PROPOSAL 4.3: CREATE AN ONLINE VICTORIAN PLANNING LIBRARY

It is understood that Councils currently store and make available incorporated and reference documents in different ways and to different extents. A centralised online library of planning documents would reduce the administrative burden on councils and would improve access to documents for planning scheme users.

A process would be required to ensure the currency of information and to establish paths of enquiry for planning scheme users (such as requests for hard copies, etc). Hyperlinking to reference and incorporated documents directly from online planning scheme documents would also be beneficial.

PROPOSAL 5: IMPROVE SPECIFIC PROVISIONS

PROPOSAL 5.1: IMPROVEMENTS TO SPECIFIC PROVISIONS

At this stage there are 50 parts of the VPP that have been identified for further review. In many cases they are broad based statements of intent and give little understanding of what the modified VPP or related provision would look like. In principle, these modifications are supported, however Council would like to be consulted on the specific revision wording to better understand any local implications.

An example of this is that the discussion paper notes that the use of Section 173 agreements has increased in recent years, representing a 32 per cent increase since 2004, and questions whether they are being overused. It is noted that the *Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Bill 2017* proposes to change the *Planning and Environment Act 1987* to allow Councils to enter into an agreement with landowners for the development or provision of land for affordable housing. This change serves to perpetuate the use of Section 173 agreements, in lieu of other provisions to support this outcome, such as inclusionary zoning. Council recommends a study of the content of Section 173 agreements to understand what they are being used for and whether their use reflects potential gaps in the available planning provisions.

PROPOSAL 5.2: UPDATE THE DEFINITIONS SECTION OF THE VPP

This proposal is long overdue and should help clarify land use applications.

PROPOSAL 5.3: REGULARLY REVIEW AND MONITOR THE VPP

This proposal provides opportunity to reflect on the broader operation of the VPP and makes for a more responsive planning process.

IMPLEMENTATION WORK PROGRAM

The discussion paper notes the significant work program that will be required to implement the proposed changes. It is essential for councils to understand the timing and staging of the work program, so as to maximise opportunities for alignment of strategic work at the local level. Glen Eira City Council is currently engaged in a significant program of strategic work and it is anticipated that an associated planning scheme amendment will commence in mid-2018. The structure of the planning policy framework, in particular, will have significant implications for this work. To a lesser extent, changes to particular provisions, zones and overlays, may also have an impact.

In addition to aligning our strategic work, Glen Eira City Council would welcome the opportunity to be involved in the various review projects that will emerge from the proposed work program. Council anticipates that genuine engagement with local government will occur and suggests a staged program of projects be made available to allow councils to express their interest in a coordinated manner.

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