

Making it easier to do business in Victoria

Small Business Regulation Review (Retail Sector)
Detailed descriptions of the Action Statement reforms

June 2018

The logo for Small Business Victoria, featuring the text "SMALL BUSINESS VICTORIA" in white, bold, uppercase letters. The text is positioned to the left of a white downward-pointing triangle. The background of the logo area consists of several overlapping, semi-transparent blue triangles of varying shades, creating a geometric, abstract design.

**SMALL
BUSINESS VICTORIA**



Authorised by the Hon. Philip Dalidakis MP

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Introduction

The Small Business Regulation Review (Retail Sector) focuses on understanding small business' experience of regulation. It identifies opportunities to remove unnecessary regulation or change the administration of regulation to reduce the burden on small businesses in Victoria.

The Victorian Government undertook a review to understand the areas of regulation that are the most burdensome for small retail businesses. Information was gathered from the following sources:

- Detailed surveys of over 600 Victorian small businesses (Small Business Survey) (KPMG was engaged to undertake the surveys and calculate the regulatory compliance cost for small retail businesses)
- Fourteen written submissions from key industry associations and business groups (including the Australian Retailers Association, Master Grocers Association, Geelong Chamber of Commerce, Victorian Association for Newsagents, and the Shopping Centre Council of Australia).
- Industry round-tables held in Melbourne and in five regional cities (in total 66 people attended the roundtables)
- Desktop review of recent regulatory reviews, media and known issues
- Reference groups with industry, local government and State Government colleagues
- Targeted engagement, including around 150 meetings with small business owners and their representatives, over 30 meetings with councils, and 40 meetings with State Government officials from across several departments and agencies.

The development of the reforms was undertaken through a co-design process centred on the experience of small businesses. This user-centred approach allowed for effective consideration of the end-to-end experience of small business owners interacting with various levels of government.

The key stakeholder groups involved in the co-design process included:

- Small retailers and their representatives (for example, peak bodies)
- Local government (responsible for a broad range of issues affecting small businesses: planning, building, fire safety, signage, outdoor dining, parking, noise and food licenses).
- Victoria Government, as the regulator of key activities such as retail leases and aspects of food safety.
- Regulatory experts and a Commonwealth Government official.

The co-design process has resulted in the identification of specific reforms that are designed to make life simpler and easier for small retail businesses, without compromising the safety of their staff, customers and the wider community.

A draft Action Statement was released in May 2017 for a four-week consultation period. The final reforms consider feedback received through the consultation process. These reforms, described in further detail in the following sections, are grouped into the following four reform areas:

- **Reform area 1:** Making it easier to discover what is needed to start and grow a business.
- **Reform area 2:** Reducing the time taken for approvals.
- **Reform area 3:** Making it easier to understand and comply with food safety regulations.
- **Reform area 4:** Making retail leases fairer and easier to understand.

Reform Area 1: Access to information

Making it easier to discover what is needed to start and grow a business

The Small Business Regulation Review (Retail Sector) focuses on understanding small businesses' experience of regulation. It identifies opportunities to remove unnecessary regulation or change the administration of regulation to reduce the burden on small businesses in Victoria.

Small Business Victoria (SBV), within the Department of Economic Development, Jobs, Transport and Resources (DEDJTR), is responsible for implementing the four proposed reforms of Reform Area 1 - Access to information. The reforms are intended to make it easier to discover what is needed to start and grow a business in Victoria.

The proposed **Access to information** reforms are:

- 1.1 Modernise the *business.vic* website and promote the Australian Business Licence and Information Service (ABLIS)
- 1.2 Write for business not bureaucrats – improve the quality of government's communication with businesses
- 1.3 No wrong doors – improve government web service interconnectedness
- 1.4 Take it to the people – use existing networks to distribute information

Several of these reforms focus on aspects of existing websites, specifically:

- the *business.vic* website, which is an important resource for businesses across Victoria to help them start up, develop and grow
- ABLIS, a national service which helps businesses find the government licences, permits, approvals and other key compliance related resources.

The access to information reforms aim to provide the right information to support business establishment and operations. This will be achieved by collaborating with the small business sector to achieve better access to information and an improvement in the quality of information provided.

For each of the four reforms, there follows a summary of SBV's proposed actions and timelines for implementation.

1.1 Modernise the *business.vic* website and promote ABLIS

What's the problem?

Research undertaken by consultants for SBV suggests that the *business.vic* website does not meet all current user expectations. The Australian Business Licensing Information Service (ABLIS) and *business.vic* provide useful information. However, the content and delivery of information needs to be updated to reflect current best practice in communications tailored to the unique needs of small businesses.

Even though the overall growth in traffic to *business.vic* is in line with the growth of internet use in Australia, unique page views on the site have remained largely static since 2013. While it remains effective in helping users complete a single task quickly, users are engaging less with the site than they used to. This presents an opportunity to undertake a first principles review of the *business.vic* website to ensure that it best meets the needs of its target audience.

The ABLIS website provides a useful list of business registration, licensing and regulation information; however, the volume of results and information can be daunting to prospective small business owners.

What did small businesses say?

Business owners reported that it is hard to find answers. Speaking to KPMG a café operator said, “all information online is very hard to navigate and find answers to questions. For example, what constitutes a food and drink premises versus hotel – unable to find information that will allow business to clarify which our business is.”¹

When asked by KPMG about access to information, a small business seller of homemade cakes at street markets said, “Finding the necessary business approval information to open my business was quite complicated – navigating websites was difficult, so I turned to council websites but found these to vary significantly between council areas. I then used social media and online forums – where others shared how they undertook the process.”²

Consultation with businesses in this review and public submissions provided in response to the draft Action Statement, supported the need to improve the quality and accessibility of information. The strong support for the reform from industry builds on observations by Victoria’s Red Tape Commissioner that many small businesses do not understand the relevant requirements to start or modify their operations, and this complexity imposes large unforeseen costs on businesses.

The Victorian Chamber of Commerce and Industry welcomed the focus of this Reform Area to provide targeted, relevant and simple information to small business and noted that, “while there is considerable amount of information online, our members regularly tell us that it is difficult to both navigate and understand.”

Reform description

Overhaul the *business.vic* website and promote ABLIS to improve the quality and accessibility of information:

- Identify and enhance the elements that are already effective in delivering information to businesses. For example, the area of the website relating to business support and grants, and how the website is designed
- Consider what other governments do to digitally engage businesses (for example New York City Small Business Services’ business regulation search functionality; or Digital Ready Tasmania, which has a modern and engaging look)
- Adopt good practice where there are gaps between *business.vic* and other websites that are highly rated by business users
- Place a link to ABLIS on the front page of *business.vic*
- Use local government networks to further promote ABLIS
- Work with the Commonwealth Government to promote the accessibility of ABLIS.

Benefits to small business

Modernising *business.vic* and making ABLIS more accessible will make these resources more responsive and tailored to the needs of small businesses. This will save businesses time when they are seeking information and help ensure businesses are more fully informed.

KPMG calculated that the **Access to information** reforms have the potential to reduce the administrative costs for in-scope businesses by approximately \$7 million to \$14 million per annum.³

How this will happen

SBV has undertaken a review to consolidate research and confirm what information is most important to small business and how they seek to be engaged by government. Findings of the rapid

¹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 27.

² KPMG: Potential impacts of regulatory reforms on Victorian small retail business 2017, p. 26.

³ KPMG: Potential impacts of regulatory reforms on Victorian small retail business 2017, p. 35.

review and a report by Briarbird, as commissioned by SBV, will inform the design and implementation of the access to information reform area.

Enhancements to the front page of the *business.vic* website and other internet links to the site (e.g. social media) will provide quicker access to SBV services and information. New content and a contemporary *business.vic* website experience will be developed that will significantly improve tailored information for small businesses. Online business training and live chat functionality will be introduced to the *business.vic* website.

The Victorian Government will continue to work with the Commonwealth Government on the development of the second generation of ABLIS, including improving how government websites link their information.

1.2 Write for business not bureaucrats - improve the quality of government's communication with businesses

What's the problem?

The regulatory guidance material currently available to small businesses does not explain processes in an easy to understand way. This increases the cost to businesses and can lead to non-compliance or hesitancy to proceed. The information is not tailored to a small business audience. Instead, it is written from a technical or legal perspective that small businesses typically find it difficult to understand. This can mean that small business owners spend more time or money than they should on professional consultants trying to understand their regulatory requirements. Sometimes they may even give up, meaning they do not fully understand their regulatory requirements.

What did small businesses say?

Publicly available information on licences and permits requirements and information services by regulators are often not suitable to help small businesses. An interview with a small business café owner highlighted,

“The regulator answered our questions and gave us the information we needed. However, we didn't know all the correct questions to ask. Regulations change all the time and a small business should not be expected to keep up with all the changes.”

Submissions received following the release of the draft Action Statement highlighted good examples of regulators, including local councils, leading the way to improve information for small businesses. This reform presents an opportunity in working with industry representatives such as the Victorian Chamber of Commerce and Industry and local councils to recognise excellence in communication and engagement with Victoria's small businesses.

Reform description

SBV is developing a public rating system for business-facing Victorian regulators' websites. SBV will review against an agreed set of criteria for government websites that provide information to business. SBV will publish the results to enable other websites to benefit from websites that provide information in the most business friendly and accessible way. Small businesses and industry groups will be involved in this rating system. Excellence in communications and engagement will be recognised.

Benefits to small business

Creating a public rating system may help to increase the quality of communications by regulators. This in turn can assist small business owners to better understand regulations and compliance issues. The involvement of SBV and the recognition of excellence through awards will encourage improvements by introducing an element of competition and best practice.

How this will happen

SBV will identify the guidance material needs of small business and develop assessment criteria to assess information delivery. The gap between current practice and best practice will be assessed and published. This will inform suggested changes to regulators on how they can improve their communications materials. Promoting excellence will also be encouraged through public sector awards that recognise high-quality and engaging communications from regulators. Leaders in state and local government will be sought to support these reforms as champions.

1.3 No wrong doors - improve government web service inter-connectedness

What's the problem?

Small business frustration grows quickly if information is hard to find or incomplete. It can be difficult for small businesses to navigate all the government websites that contain regulatory information relevant to their activity. As a result, businesses may be unaware of, or confused as to, their regulatory requirements and some businesses may not find what they need. This adds search costs to business and may lead to non-compliance with regulation. Websites need to be tailored, linked, intuitive and mapped to ensure that answers are accessible.

What did small businesses say?

The Small Business Survey identified that retail businesses struggle to find information in a suitable format to meet their needs. They feel overwhelmed by the volume of regulation. This contributes to a lack of understanding about how they can meet their regulatory obligations. Start-ups are highly vulnerable to compliance mistakes, which can lead to unexpected costs and time pressure.

KPMG reported that businesses reported being provided with incorrect information from sources they assumed to be knowledgeable and accurate. Such sources included contact with local government. Furthermore, businesses reported the impact of incorrect information or advice as contributing to lengthened approval times.⁴

Throughout the review, businesses have told us that having a comprehensive list of licences and permits up-front would make a significant difference. For example, the Restaurant and Catering Association highlighted in their submission that providing a regulatory journey map will be a positive impact and will lead to improved compliance and better community outcomes. The Victorian Planning Institute's submission noted that a simplified and more streamlined approach would be helpful, because the public and non-planners get confused with the myriad forms and checklists of local councils. Restaurant and Catering Australia noted in their submission, "[A] regulatory journey map containing comprehensive list of all business licences issued by Council, inter-linkages between permits, fees and an indicative time table will help address confusion for business owners."

Reform description

This reform has two elements:

- 1. Provide business with a regulatory journey map**, which sets out the key steps to obtain the approvals administered by councils, State Government agencies and the Commonwealth Government. This will include a simple diagram that provides:
 - a list of all business licences issued by the council
 - inter-linkages between permits
 - fees
 - indicative timeframes.

⁴ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 26.

The 'concierge' reform (proposed in Reform Area 2) will draw on this information to pave the way for the applicant to be able to submit a single application that presents all the information the council needs to assess the application.

- 2. Link government websites.** In particular, ensuring that regulators' sites link back to *business.vic* so that it acts as a hub in a network of regulatory websites and information.

Benefits to small business

A more connected system that is easier for businesses to navigate will reduce the costs of compliance for small businesses, and improve their understanding of regulations – leading to increased compliance. It will also enable the various levels of government and regulatory organisations to be more integrated with respect to small business regulation.

How this will happen

SBV is developing the regulatory journey map for businesses and promote the *business.vic* website across other government regulators. The aim is that regulators will see value in providing a link to *business.vic* from their own website, and in their communications materials. A standard form link will be provided to make it easy for regulators to update their website.

The *business.vic* link will be appropriately displayed on government websites when they refer to 'how to start a business' information. *Business.vic* will also be linked with common issues, such as employing staff or food safety.

The **No wrong doors** reform will require the preparation of a map of existing regulator communications to identify and recommend options. To facilitate this, SBV will:

- Review and amend *business.vic* to ensure current links are accurate and link back with other government regulators
- Build and embed the regulatory journey map into the *business.vic* website and supply the link to other regulators so that they can include it on their own website
- Engage with business-facing regulators and agencies about using the supplied link
- Curate and target the links based on self-selected criteria.

1.4 Take it to the people: use existing networks to distribute information

What's the problem?

Governments concentrate on supply of information via direct channels and often do not adequately use the available networks of intermediaries to reach businesses. Government does not channel or tailor its communications to the sources that small businesses prefer to use. These include business advisers, accountants, financial planners, real estate agents, industry associations and local chambers of commerce. Increased effort from government to better link to the trusted sources where businesses already seek advisory information is an effective way to disseminate regulatory information to the target small business audience.

What did small businesses say?

In 2016 Australian Tax Office (ATO) research found that businesses tend to seek out information from their business advisers, industry associations, or through social networks.⁵ Businesses principally consider that regulators have an enforcement role, rather than an information and education role to promote compliance.

Reform description

⁵ ATO – Small Business Engagement – Final Report, TNS Social Research Consultants, Rutley, Elliott and Tatarynowicz, March 2016.

The Victorian Government will leverage intermediaries that businesses trust to develop the best methods for the distribution of information. This includes face-to-face engagement, training and electronic communication. A key focus will be providing content to intermediaries that can be disseminated under their own trusted brand.

Benefits to small business

By using existing networks to distribute information, small businesses will have greater access to regulatory information via a trusted source. The information is likely to also be provided in a timelier manner, as many small businesses engage with an accountant prior to establishment. This will improve understanding of regulatory matters and reduce search costs for businesses.

Associations including the Certified Practicing Accountants, the Australian Retailers Association and the Master Grocers Association submitted that they support this type of communication.

How this will happen

SBV will develop its network of trusted advisers and supply them with information to provide to their small business clients, and the connectivity to do so. SBV will inform and support small businesses through channels that small businesses trust. SBV will work with intermediaries to further develop good-quality tailored information that is readily available, including:

- **Business advisers**, such as Certified Practicing Accountants and financial institutions
- **Industry associations**, such as the Australian Retailers Association, the Council of Small Business of Australia and the Real Estate Institute of Victoria
- **Chambers of commerce**, including the Victorian Chamber of Commerce and Industry (VCCI) and regional and local chambers of commerce
- **Local councils**, to leverage SBV events, many of which involve intermediaries.

Reform Area 2: Approvals processes

Reducing the time taken for approvals

This reform area involves introducing a suite of reforms, which will improve the approvals processes involved in starting or changing a new retail small business. Consultation with small business overwhelmingly pointed to delays in obtaining the approvals needed to start trading as a key issue.

The Small Business Survey found the initial establishment phase to be the most difficult part of the business lifecycle:

- 38 per cent of respondents said this was the most difficult phase of their business
- 41 per cent considered shortened approval times a priority measure that could reduce regulatory burden for business
- 32 per cent indicated they wanted an increase in online application processes.

The diagram below provides a high-level summary of the proposed reforms for Reform Area 2.

Approvals Processes reforms

2.1 Introduce a council concierge service to assist businesses

Introduce a concierge service within local councils to help applicants understand approvals requirements and lodge correct and complete applications.

2.2 Introduce a single application process

Consolidate application processes and establish a single application process for all local government administered approvals typically needed to start a new business.

2.3 Move from sequential to concurrent approvals processes

Work with councils and VCGLR to promote joined-up, efficient and concurrent processing of approvals.

2.4 Reduce permit requirements

Reduce permit requirements that add unnecessary delay and costs to establishing a business. This will include replacing permit regimes with 'deemed' standards for low risk activities administered by councils.

2.5 Improve transparency on new business application processing times

Introduce an indicator into the existing Local Government Performance Reporting Framework that captures the time taken for new business applicants to receive the core bundle of permits they need to start. It will also identify the fees each council charges.

Transforming the approvals experience for small businesses

The proposed reforms will improve the small business owner's experience of opening their business. Figure 2 shows how an applicant may currently progress from one application process to another in a sequential, disjointed manner. The applicant may have to deal with several areas of council and potentially several State Government regulators.

Potential estimated annual cost savings to small retail business from reforms 2.1 – 2.3 of between \$46 - \$93m; and from reform 2.4 of between \$6.3 - \$7.7m

KPMG estimates that waiting times in obtaining approvals cost small retail businesses \$320 million per year. DEDJTR estimates that, depending on the permits required and the complexity of the application, the proposed reforms will introduce a 10-30 per cent reduction in waiting times.

Based on this, KPMG estimates that reduced waiting times through the proposed reforms would benefit small retail businesses by **\$46–\$93 million per year**.⁶

The estimated benefits are higher for businesses that establish a new business on a new site (as opposed to established sites). For these businesses, KPMG estimates the benefits of reduced waiting times range from **\$10,300–\$20,600 per business**.⁷

The reforms will significantly reduce the waiting time for business applicants to receive their approvals and permits. The key changes that will reduce waiting times for business applicants are:

- **Concierge service** – helps applicants lodge correct and complete applications to save delays caused by going back and forth to council, or finding out down the track that additional or different permits are needed for the intended business activity. The concierge service may include online information, over the phone support and/or face-to-face contact with applicants.
- **Single application process** – reduces the number of forms to fill out and provides a single point of entry to simplify the applications stage. This will enable all relevant areas of council to get started processing applications straight away.
- **Concurrent processing** – helps council processes become more concurrent and coordinated across each area of council. Building on the single application process reform, this will reduce duplicative requests for information and inspections and will make council processes operate in a more concurrent way, often referred to as a 'swim-lane' approach. Rather than each area passing a business's application from one council area to the next sequentially once the area is finished processing the application, the application process will be dealt with concurrently. A key change here will be to promote concurrent processing of planning permits and liquor licence applications.
- **Reduce permit requirements** – this reform will reduce permit requirements that add unnecessary delay to the total time it takes to obtain permits needed to start trading. A potential key change here is to remove about 6,500 portable signage permits and 4,300 footpath trading permits and convert them to 'deemed' standards.⁸
- **Access to Information** – the suite of access to information reforms described in the previous section will also reduce waiting times by making it easier for businesses to find out about their requirements so that they can lodge correct and complete applications. In particular, it will support the concierge service reform.

The Small Business Survey found that the key factors influencing the approval application experience and overall approval time to start a business were:⁹

- **The ability of business to effectively sequence their approvals** to maximise the number of approvals that can occur concurrently.
- **The quality of the application by the business**, which could be enhanced through effective pre-planning or participation in pre-application meetings with regulators.
- **The relative capability and capacity of councils** to efficiently and effectively process applications and provide accurate information and assistance to businesses where required.

⁶ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

⁷ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 41.

⁸ As above, p. 48.

⁹ As above, p. 17.

SBV are leading a Better Approvals Project with volunteer council to implement reforms 2.1 to 2.4¹⁰. Refer to page 24 for further information.

2.1 Introduce a council concierge service to assist businesses

What's the problem?

Victorian regulations typically require a small retail business at start-up phase to register or apply for multiple permits and licences from councils and State Government agencies. This is in addition to multiple Commonwealth Government licences and permits required for business registration and taxation requirements.

The bulk of the approvals required to open or expand the scope of a retail business are administered by councils. Small businesses often do not know what approvals are required for their business activity and there is no clear single-entry point into councils. These regulatory 'silos' make it difficult for small businesses to know which applications to submit and where to start. Delays and difficulties navigating the system are often traced back to the early interactions an applicant has with council.

From a small business perspective, the lack of coordination in administering approvals across the three tiers of government increases complexity and creates delay.

What did small businesses say?

During their initial establishment phase, small businesses are highly vulnerable to unforeseen costs and delays. During this phase businesses often have high outgoings but have not commenced trading. As a result, small businesses are particularly vulnerable to failure during this phase. Small businesses have reported that they often receive inconsistent advice depending on which council areas they speak with. This can lead to businesses overlooking approvals that they later find out they need.

Small businesses reported that complications and delays in the approval process could often have been avoided if there had been better information upfront and more coordinated applications processes among regulators.

Reform description

Introduce a concierge service within councils that will provide a single-entry point and single source of information for approvals processes administered by councils. The concierge will help applicants lodge correct and complete applications to save delays caused by going back and forth to council, or finding out down the track that additional or different permits are needed for the intended business activity. It may include online information, over the phone support and/or face-to-face contact with applicants.

The council-based concierge 'host' will:

- Advise business applicants over the phone or face-to-face on which council-administered permits they need and what information or plans are required
- Provide initial advice and support to business applicants and help them navigate through the council-administered approvals processes
- Liaise with their colleagues in the relevant council areas (including linking the applicant with subject matter experts within council if required) to coordinate the process
- Direct applicants to the ABLIS database for further details on the local, State and Commonwealth Government-administered permits and registrations required.

¹⁰ Implementation responsible for reform 2.4 is split across SBV (DEDJTR), Local Government Victoria (DELWP) and DELWP's Planning area. Further implementation detail is set out at Section 2.4.

This reform will link into the Access to Information reforms that will provide improved online information on regulatory requirements.

How this will happen

SBV, in conjunction with councils, will implement this reform as part of the Better Approvals Project. For further information on this project see page 24.

Benefits to small business

Reform 2.1 is part of a suite of reforms to approvals that will reduce waiting times in obtaining approvals. The benefits of this reform to small businesses include:

Key information is provided upfront giving the applicant clarity and greater certainty about which licences are required, likely timeframes, costs and what information they need to provide in support of their application.

Time delays and additional costs down the track will be avoided, such as delays caused by missing a permit needed to undertake a business activity (for example, obtaining a planning permit for a café that does not include the service of liquor, or the ability to trade on the footpath).

The small business applicant will feel more in control and supported throughout the process, receiving consistent advice, reducing the uncertainty currently faced.

KPMG estimates that waiting times in obtaining approvals cost small retail businesses \$320 million per year. DEDJTR estimates that, depending on the permits required and the complexity of the application, the proposed reforms will introduce a 10–30 per cent reduction in waiting times. Based on this, KPMG estimates that reduced waiting times through the proposed reforms would benefit small retail businesses by **\$46–\$93 million per year**.¹¹

The estimated benefits are higher for businesses that establish a new business on a new site (as opposed to established sites). In this circumstance, KPMG estimates that the benefits of reduced waiting times would range from **\$10,300–\$20,600 per business**.¹²

2.2 Introduce a single application process for new businesses

What's the problem?

Small businesses typically require multiple regulatory approvals and permits administered by councils and State regulators (e.g. planning, food safety, local laws and liquor). This is in addition to multiple Commonwealth Government licences and permits required for business registration and taxation requirements.

Application processes are often fragmented by licence or permit type, with a separate application form required for each. Business applicants typically need to lodge applications with each relevant council area individually, which creates duplication of effort and delays, and a lack of integrated system-wide consideration of applications.

What did small businesses say?

Small businesses reported that they felt overwhelmed by the separate applications and overlapping tasks and would prefer a 'no surprises' and single touch point approach for regulatory approvals. For example, a new café or restaurant may typically be well advanced with its planning approval process when it is notified that additional permits for a liquor licence, local laws signage permits and footpath trading may be required. This can lead to further delays and additional costs prior to being open to trade.

¹¹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

¹² As above, p. 41.

Many respondents to the Small Business Survey said that the initial establishment phase or trying something different was the most challenging phase of their business. Businesses have said that simplifying and shortening the length of waiting times for approvals would ease regulatory burden.

Reform description

Reform 2.2 reduces the number of forms to fill out and provides a single point of entry to simplify the applications stage and allow businesses to apply once for all council-administered approvals necessary to start a new business.

SBV will work with councils to establish a single application form to cover all the approvals and registrations typically needed to start a new business. The reform will start by introducing a single application for council-administered approvals with the longer-term aim of incorporating other State and Commonwealth Government administered approvals as follows:

- **Stage 1:** All council-administered approvals (planning, environmental health, local laws) plus liquor licences
- **Stage 2:** Consideration of all other state-administered approvals (for example, WorkSafe premiums and payroll tax registration)
- **Stage 3:** Consideration of Commonwealth Government business and tax registrations.¹³

It is anticipated the Better Approvals Project will cover the following application processes. This list will be finalised with the councils involved in the Better Approvals Project:

- Planning permits, including:
 - Land use
 - Development permit
 - Change of use
 - External works
 - Car parking permit / waiver
 - Advertising signage permit
- Food safety permits including:
 - Fixed food premises registration
 - Mobile or temporary food premises registration
- Building permits
- Local laws permits, including:
 - Footpath trading permit
 - Permit to place temporary signs on the footpath
- On-premises Liquor Licence.

How this will happen?

SBV are implementing this reform in conjunction with councils, as part of the Better Approvals Project. For further information on this project see page 24.

Benefits to small business

Reform 2.2 is part of a suite of reforms to approvals that will reduce waiting times in obtaining approvals. The single application will significantly reduce the time it takes from lodgement to the final regulatory approval required to trade.

Significant benefits to businesses in start-up or expansion phase include:

- A single application form will save time for small businesses
- Avoids the duplication of information being submitted

¹³ Stages 2 and 3 are outside the scope of the Better Approvals Project.

- Facilitates submission of accurate and complete applications.

KPMG estimates that the waiting times in obtaining approvals cost small retail businesses \$230 million per year. DEDJTR estimates that, depending on the permits required and the complexity of the application, the proposed reforms will introduce a 10–30 per cent reduction in waiting times. Based on this, KPMG estimates that reduced waiting times through the proposed reforms would benefit small retail businesses by **\$46–\$93 million per year**.¹⁴

The estimated benefits are higher for businesses that establish a new business on a new site (as opposed to on established sites). In this circumstance, KPMG estimates that the benefits of reduced waiting times would range from **\$10,300–\$20,600 per business**.¹⁵

Regulators will achieve efficiencies from the integration to a single application by way of better coordination of regulatory approvals processes within areas of councils and external state-based agencies.

2.3 Move from sequential to concurrent approvals processes

What's the problem?

Retail businesses typically require multiple licences and approvals to trade (for example, planning and food safety). The areas within a council responsible for assessing each application often work independently with minimal established processes for communication between the internal areas and external referral agencies.

The lack of coordination often results in approvals being processed sequentially where each individual approval process starts only once the previous is complete. For example, local laws permits for footpath trading are typically processed only once a planning permit approvals process is complete. This sequential processing results in substantial delays and cost to small businesses.

What did small businesses say?

Inefficient approvals processes increase the time it takes to start up a new retail business. Consultations suggest that a complex approvals process for a new restaurant business can take 18 months.

Separate application assessment processes increase costs for businesses and councils. Business applicants can receive separate requests for information (for example, planning and local laws) and undergo multiple site inspections (for example, planning and food safety) from different areas of council in relation to the same business development. Planning and liquor permits can also undergo separate public notification processes.

Reform description

Reform 2.3 will promote changes to the regulatory process of councils and the Victorian Commission for Gambling and Liquor Regulation (VCGLR) to promote a more joined-up, efficient and concurrent processing of approvals. Key changes include:

- A case management model to improve the coordination of approvals processes and bring areas of council closer together
- Planning and liquor licence processes to be more concurrent
- The number of requests for information will be reduced
- The promotion of joint site inspections by council areas
- Increasing council delegations for low-risk approvals.

How this will happen

¹⁴ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

¹⁵ As above, p. 41.

This reform is being implemented as part of the Better Approvals Project, led by SBV, in conjunction with councils. The elements of the projects that relate to this reform are set out below. See page 24 for further information on the Better Approvals Project.

The Better Approvals Project will design a case management approach that can be implemented flexibly to suit the individual circumstances of each council. It will focus on system and process redesign to enable more concurrent processing, further enhance council efficiency, and reduce the time taken to obtain approvals. It will also include practical changes required to successfully implement change.

The project will also explore the feasibility of a case management IT system that identifies the inter-linkages between council areas and approvals to identify the critical path for the application. The system could also track applications across the multiple areas of council to give greater visibility on where each element of the application is up to.

The following elements of the Better Approvals Project are aimed at moving from sequential to concurrent approvals processes:

Introduce a case management model: SBV will work with councils to develop a case management model as a coordinating mechanism to reduce the time taken to process business applications. While the exact nature of this model will be determined as part of the Better Approvals Project, key features of a potential model are outlined below:

- A multi-disciplinary team comes together to discuss how new applications will be handled and determine the most efficient process given the nature of the application, its complexity and associated risks. It is likely that applications from multiple businesses would be considered in bundles for efficiency.
- The multi-disciplinary case management team including experts from across council will meet periodically to discuss 'live' applications.
- The case management team will be led by the council area most relevant to each specific application, determined on a case by case basis. In most instances this would be the planning area. In its submission on the draft reforms, the Victorian Planning Institute expressed concern with this aspect of the reform, stating that council planning areas already have considerable work load. The Better Approvals project will be aware of this feedback and work closely with the councils involved to identify workable models, which may vary across councils¹⁶.
- The lead council area will coordinate all areas of council involved to process all the applications for the business.
- The lead council will coordinate across council areas to ensure that where possible public notifications, requests for information and site inspections are done jointly.
- Low-risk applications are designated for fast tracking or reduced time limits.

Increase alignment of processing of planning and liquor licence applications: Work with councils and the VCGLR to promote practice change to achieve a more joined-up, efficient and concurrent processing of approvals.

Reduce the number of public notifications: SBV will lead the development of a model for greater alignment of public notifications of planning and liquor licence applications, in consultation with the VCGLR and the Department of Justice and Regulation. This will ensure that applicants are not required to undergo two separate public notification processes in relation to the same development.

¹⁶ Victorian Planning Institute 23 June 2017.

Reduce the number of requests for information: SBV will lead the development of a model for council areas to issue joint requests for information. For example, from council planning and environmental health areas respectively. Opportunities to align with the VCGLR will be explored.

Promote joint site inspections: SBV will lead the development of a model for joint site inspections (e.g. for the purposes of planning, food safety and footpath trading permits).

Model delegations of council decision-making authority: SBV will lead the development of a best practice model delegation for councils to delegate decision-making authority to their internal administrative areas to reduce the number of council hearings that relate to low risk or low-impact permit applications.

Benefits to small business

Reform 2.3 is part of a suite of reforms that will significantly reduce the amount of time taken to obtain the approvals needed to open a new business and will reduce costs on small business. It will make council processes more coordinated across council areas which will make processing quicker and reduce duplicative requests for information, inspections and public notifications. This will make council processes operate more concurrently (often called a 'swim-lane' approach), as opposed to the current state where a business application is often passed from one council area to the next sequentially once each area has finished processing its element of the application. Some elements of the approvals process will still need to happen sequentially. For instance, a building permit cannot be issued until after a planning permit has been issued. This however, does not preclude an applicant from submitting both applications at the same time if they wish.

KPMG estimates that waiting times in obtaining approvals cost small retail businesses \$320 million per year. DEDJTR estimates that, depending on the permits required and the complexity of the application, the proposed reforms will introduce a 10–30 per cent reduction in waiting times. Based on this, KPMG estimates that reduced waiting times through the proposed reforms would benefit small retail businesses by **\$46–\$93 million per year**.¹⁷

The estimated benefits are higher for businesses that establish a new business on a new site (as opposed to on established sites). For this circumstance, KPMG estimates that the benefits of reduced waiting times would range from **\$10,300–\$20,600 per business**.¹⁸

2.4 Reduce permit requirements

What's the problem?

There are several regulatory processes that are more onerous than necessary to control identified risk. This overregulation adds barriers to small business start-up and expansion, particularly in terms of the search cost, time to seek approval and associated costs.

What did small businesses say?

Small businesses reported that the accumulation of requirements imposes significant costs on business and can delay them from starting up.

Reform description

This is a part of a package of reforms that will reduce current permit requirements that are low risk and replace them with alternative regulatory measures (for example, standards).

Reform 2.4 will:

- **Replace local laws permit regimes** with codified 'deemed' standards for low-risk activities administered by councils

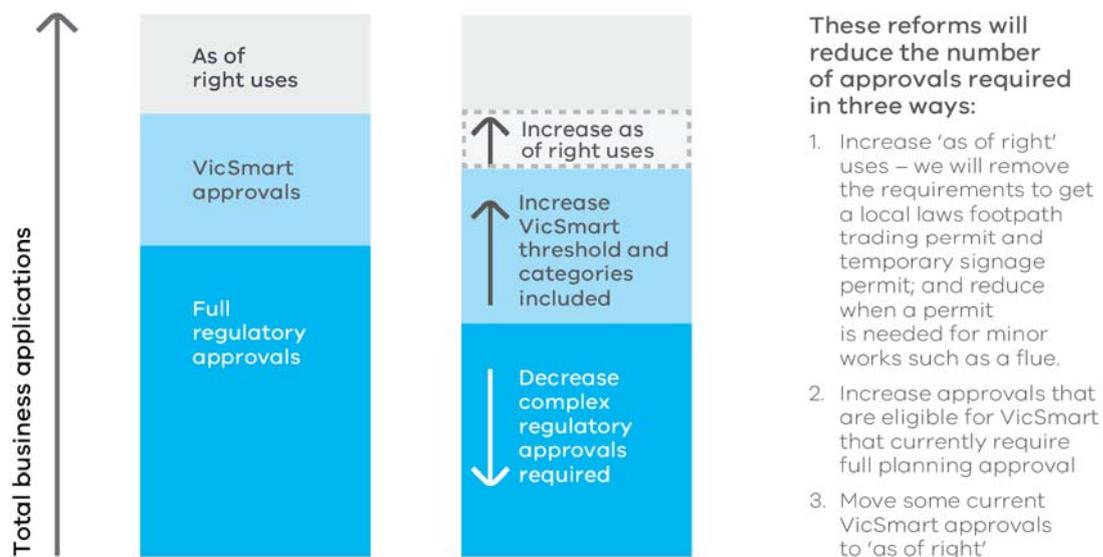
¹⁷ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

¹⁸ As above, p. 41.

- **Review the scope of existing exemptions** in relation to specific planning issues to remove unnecessary permits
- **Simplify planning regulations** for businesses by reviewing the Victoria Planning Provisions.

The following diagram summarises how the reforms aim to reduce the number of low-risk approvals administered by councils and shift more categories of planning permit application into the VicSmart initiative. This will allow more council resources to be applied towards complex applications as well as concierge or case management functions.

OUR REFORMS SEEK TO REDUCE THE NUMBER OF LICENSES REQUIRED TO START A BUSINESS



How this will happen

Best practice regulatory principles state that regulation should be the minimum necessary to address the identified risk. The permit requirements identified below appear not to be consistent with the public need or risk to the community, and as such have been identified for inclusion in the Better Approvals Project.

The reform to codify local laws and permits into an 'deemed' standard will be included in the Better Approvals Project led by SBV. For more details on the project refer to page 24.

The specific amendments to planning regulations will be implemented by the planning area in the Department of Environment, Land, Water and Planning (DELWP).

In the first instance, the Smart Planning Program that is being led by DELWP will investigate opportunities to address the planning related reforms.

The Smart Planning Program will deliver a more accessible and efficient planning system, through simpler planning rules and modern, digital tools, informed by collaborative engagement with a wide range of stakeholders.

Introduced in July 2016, the initiative is currently slated as a two-year program to improve and reform Victoria's planning system, laying the foundation for further transformative opportunities.

The program will simplify planning rules, particularly zones and overlays, improving use and navigation for participants with better delivery of planning information.

These reforms include expanding the scope of the planning permit application types that are eligible for the VicSmart fast-track process, where permits are processed within 10 days and are not advertised.

Consistent with the recommendations of the Small Business Review - Retail, DELWP has recently expanded the scope of VicSmart to include the following:

- **Buildings and works:**
 - Increase the threshold for 'buildings and works' applications eligible for VicSmart from \$50,000 to \$500,000 in commercial zones
 - Increase the threshold for 'buildings and works' applications eligible for VicSmart (where not associated with a dwelling) from \$50,000 to \$100,000 in the Mixed-Use Zone
 - Introduce a \$100,000 threshold for 'buildings and works' applications eligible for VicSmart (where not associated with a dwelling) in other residential zones
- **Car parking:** Increase the number of car parking spaces for which applicants can seek a reduction or waiver to no more than 10 spaces
- **Advertising signage:** Extend the range of zones that are eligible for a VicSmart process for signage to include additional zones in which commercial activities may occur.

These changes are specifically targeted to commercial activities and will reduce some of the regulatory barriers faced by small business.

[Review the scope of existing exemptions to remove unnecessary permits](#)

Planning permit for works to the external façade of buildings

Clause 34 of the Victoria Planning Provisions sets out the rules that apply in the Commercial 1 Zone and Commercial 2 Zone.

The rules include a requirement for a permit to carry out building works. They also set out exemptions for external works to the façade of existing buildings including:

- The installation of an automatic teller machine
- An alteration to an existing building façade provided:
 - The alteration does not include the installation of an external roller shutter
 - At least 80 per cent of the building façade at ground floor level is maintained as an entry of window with clear glazing
- An awning that projects over a road if it is authorised by the relevant public land manager.

Consultations suggest that a permit requirement for works to the external façade of buildings (for example, external flues) often creates unnecessary complexity, confusion and additional delay for business applicants. This is not consistent with the risks to the community, when the structural integrity of such works is covered under building legislation.

Reform description:

Acknowledging that the recently expanded VicSmart scope has increased the threshold for 'buildings and works' applications eligible for assessment within 10 business days, DELWP will examine rules in relation to works to the external façade of buildings to identify opportunities to review the scope of the exemptions. The exemptions will set out the parameters determining when a permit is not required. In some instances, if an application is not within these parameters, a permit application will still be necessary.

Advertising signage – fixed

Advertising sign requirements are set out in Clause 52.05 of the Victoria Planning Provisions. Clause 52.05-7 sets out standards for signs that are allowed without a permit in commercial areas, including business identification signs, promotion signs and illuminated signs that meet certain conditions.

Reform description:

Acknowledging that the recently expanded VicSmart scope has increased the eligibility of some commercial signs to be assessed within 10 business days, DELWP will examine existing signage rules to identify opportunities to review the scope of the current exemptions where possible, including to bring standards up-to-date with developments in signage technology (for example, the latest internally illuminated signs).

Car parking

Clause 52.06 of the Victoria Planning Provisions sets out the standard car parking requirements that apply across Victoria. Clause 45.09 permits councils to set out local variations to the standard requirements in their Planning Scheme. This introduces significant variability into car parking requirements across council boundaries and creates uncertainty for businesses.

The car parking requirements are generally linked to criteria on floorspace or patron numbers. Small business applicants are often required to seek a waiver of car parking requirements. Traffic engineers within the relevant council planning area routinely require applicants to commission a traffic impact report from a private traffic consultant. This imposes further costs and delay on small business applicants.

Reform description:

DELWP will work with councils to design a more efficient process.. This approach could spatially map car parking requirements in council areas to provide applicants greater certainty and inform the councils' traffic experts' assessment of planning permit applications. This will remove the need for business applicants to commission a private consultant traffic impacts report for each individual planning permit application.

Simplify the planning regulation for business by reviewing the Victoria Planning Provisions

In addition to the above, Reform 2.4 recommends that Department of Environment, Land, Water and Planning also pursue the following amendments:

Simplify planning regulations for businesses

- **Car parking:** acknowledging that the recently expanded VicSmart scope has increased the number of car parks which can be assessed for reduction or waiver within 10 business days, the review also recommends that DELWP's Smart Planning Program examine the way in which car parking and the planning permissions required are considered. In particular, opportunities to approach parking in activity centres more holistically to reduce the impact on individual businesses or to reduce or remove car parking requirements where appropriate should be considered. This may be achieved through encouraging councils to provide a localised exemption in a specific activity centre for activities that require a minimal number of car parking spaces (e.g. 5 spaces) according to the criteria in clause 52.06 of the Victoria Planning Provisions.
- **Expansion of existing use:** The review recommends that DELWP's Smart Planning Program examine opportunities to include some proposed expansions of already approved land use activities within the VicSmart fast-track process, instead of being subject to a 'section 72' amendment process, which can trigger the same requirements as a new application and create significant delay.
- **Change to internal layout:** The current requirements to comply with internal layout plans endorsed under planning permits appear overly stringent. Relatively minor changes to the internal layout of premises (e.g. changing configuration of tables or moving storage / bins) can trigger the need for a 'section 72' amendment process, which can trigger the same requirements as a new application and create significant delay. The review recommends that DELWP's Smart Planning Program examine opportunities to include minor changes to simplify the process for assessing and determining endorsed internal layout plans.

Benefits to small business

Reform to convert local laws permits to 'deemed' standards

These reforms include codifying local laws permits for footpath trading and portable signage into 'deemed' standards, as part of the suite of reforms that will reduce small businesses waiting times to obtain approvals. In addition, KPMG estimates that the indicative savings from this type of reform for small retail businesses would be **\$4–\$4.3 million in administrative costs per year**.¹⁹

Reform to car parking requirements

These reforms include moving from councils routinely requiring applicants to commission consultant traffic impact reports to an approach where councils prepare a traffic impacts report that covers their council area. KPMG estimates that the indicative savings from this type of reform for small retail businesses would be **\$1.6–\$2.2 million in administrative costs per year**.²⁰

Reform to fixed signage

These reforms include changes to expand existing exemption for planning permit requirements for fixed signage. KPMG estimates that the indicative savings from this reform to small retail businesses would be **\$0.7–\$1.2 million in administrative costs per year**.²¹

2.5 Improve transparency on new business application processing times

What's the problem?

Much of the burden of regulation on small business results from how it is implemented. The time it takes to get the permits needed to open a new business depends on how each council implements regulatory functions delegated under state legislation (across planning, local laws and food safety).

There is one indicator in the Local Government Performance Reporting Framework that estimates the time taken to process planning permits. Performance uplift will be improved by extending this to the aggregated number of permits and associated fees.

What did small businesses say?

Small businesses reported that council permit delays cost them significant time and money.

Reform description

Introduce indicator/s into the existing Local Government Performance Reporting Framework that captures:

- The time taken for new business applicants to receive the core bundle of permits they need to start trading (e.g. planning, food safety and local laws permits)
- The fees charged for each permit type.

The Local Government Performance Reporting Framework currently includes four optional 'economic development' indicators. Feedback received from councils through a survey conducted in 2014–15 suggested these should be revised to make them more meaningful.

New economic development indicators will help incentivise coordinated service delivery to small business. Once developed, these indicators will be published on the Know Your Council Website alongside the other indicators included in the Local Government Performance Reporting Framework.

How this will happen

Local Government Victoria will lead the change through the Steering Committee that oversees the Local Government Performance Reporting Framework.

¹⁹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 48.

²⁰ As above, p. 52.

²¹ As above, p. 56.

Benefits to small business

The publishing of business application processing times on the Know Your Council Website will provide more information and choice to small businesses. It will incentivise councils to make approvals processes more efficient and reduce delays for businesses.

Better Approvals Project

Project description and governance

The Better Approvals Project will bring together the different elements of the approvals process reforms outlined in the *Draft Action Statement* (Reforms 2.1–2.4). The project is a flagship reform coming out of the Small Business Retail Review. In the draft Action Statement this project was called the Integrated Demonstration Project. The project will now be called the Better Approvals Project in response to stakeholder feedback that the title should more accurately reflect what the project seeks to achieve.

SBV is leading the project and is responsible for project governance and oversight. The project is being delivered with councils, whose input will be critical to success. Because this suite of reforms involves change at the council level, the councils will be involved throughout the project, from the initial project scoping with the project consultant and SBV, through to co-designing and implementing changes.

Scope of the Better Approvals Project

The Better Approvals Project will commence the implementation of the suite of approvals process reforms in conjunction with volunteer councils.

The project will deliver:

- **Implementation of Reforms 2.1 to 2.4 in councils involved in the project.** This will include the co-design, testing of enhanced systems and processes, as well as practical implementation support to embed the reforms within the councils.
- **Evidence of the costs and benefits of the reforms to councils and small businesses.** This will include an understanding of the base case/current state and new measures to understand the total time taken to obtain all necessary permits to operate a small retail business.

The following table sets out the relevant reforms and the expected outputs of the Better Approvals Project:

Reform/steps	Outputs
Introduce a concierge model within councils to assist businesses to lodge correct and complete applications. The project will trial and refine multiple concierge models recognising that a one size fits all approach may not be feasible.	Fit for purpose concierge models implemented in the project councils
Introduce a single application process for new businesses. The main objective here is to develop model template application processes and forms that bring together the various application processes.	Model standard single application processes and forms implemented in the project councils.
Move from sequential to concurrent approvals processes. Develop and trial practice and process changes including:	Fully documented and implemented case management system in each project council.

<ul style="list-style-type: none"> • A case management system • Promote concurrent planning and liquor licence processes • Joint public notifications of planning and liquor licence applications • Joint site inspections by council areas • Model delegations of council decision-making authority 	
<p>Develop ‘deemed’ standards to replace existing local laws permit regimes for footpath trading and temporary signage.</p>	<p>‘Deemed’ standards applied in the project councils for footpath trading and temporary signage</p>
<p>Develop an evaluation framework to estimate the costs and benefits of the project’s reforms for councils and small businesses. This will provide a base case or benchmark to measure the project’s effectiveness.</p> <p>Improved transparency on new business application processing times through the development of an indicator that captures the time taken for new business applicants to receive all the permits they need to start trading. This aspect will support Local Government Victoria’s work in this space.</p>	<p>Evaluation framework including: indicators/measures; data collection process; baseline date.</p> <p>New evaluation indicators that capture the time taken for new small business applicants to receive all the permits they need to start trading.</p>

Reform Area 3: Food safety

Making it easier to understand and comply with food safety regulation

3.1 Clarity for all – let's administer the *Food Act 1984* better

What's the problem?

The 79 councils in Victoria interpret the *Food Act 1984* (Food Act) in slightly different ways. These inconsistencies across council areas add to the cost of establishing food premises in Victoria, and in many instances, lead to a sub-optimal application of the Food Act.

Reform description

A working group consisting of the Department of Health and Human Services, council-based Environmental Health Officers from each region, the Municipal Association of Victoria (MAV) and industry will come together to co-develop guidance notes on key areas of administration of the Food Act. The group's role will be to consider and agree on best practice approaches that will then be adopted by councils to achieve more consistent application of the Food Act across Victoria.

Potential areas for guidance notes are:

- How councils administer the registration process - specifically, the group could work through which questions are included on an initial registration form, where the form is available, and how the registration process interacts with other council approvals
- A common framework to aid Environmental Health Officers when they conduct inspections and how to communicate with business
- Agreement on what compliance information will be uploaded onto Streatrader (the on-line registration system for mobile and temporary food businesses).

Upon reaching agreement, the working group will present its position to the Department of Health and Human Services (DHHS) for a final decision, with subsequent distribution of guidance material to councils. The guidance notes will also be published to increase transparency for small business.

What did small businesses say?

The KPMG findings show that food safety regulation carries the highest level of regulatory cost. Councils apply several key elements of the Food Act differently, creating inconsistency and uncertainty for businesses across Victoria. Other inconsistencies are the publication of fees, application processes and different levels of Streatrader usage. Many Environmental Health Officers indicated a desire for more guidance in many of these areas.

Franchisors need to tailor advice to their franchisees and cannot develop a set of standard operating procedures because of this inconsistency.

How this will happen

This will be achieved through implementing a more consistent approach to food regulation across councils, including the co-design of guidance material with councils and business operators. This approach will be reviewed to ascertain if small businesses see a difference in the application of the Food Act. The review will include an evaluation of the effectiveness of the guidance notes approach, and whether other approaches may be required.

Benefits to small business

The increase in application consistency across the 79 councils will create synergies and cost savings for businesses that operate across council boundaries. A single set of guidance notes will ensure that all Environmental Health Officers are working from the same set of instructions with the same risk appetite.

Environmental Health Officers will have the necessary support for dealing with new or ambiguous situations through stronger linkages with DHHS and councils. This support will be helpful when training new officers. Further, this reform builds on the work already being undertaken by the Department of Health and Human Services, such as the Managers' Forum (which brings together Environmental Health Officer managers from across the State).

3.2 Fee transparency for food regulation

What's the problem?

The fees for food regulation activities across Victoria are not readily available for businesses when considering their options to start or expand their business. Furthermore, established small businesses are not clear about the value derived from known fees, as they rarely see a breakdown of the component costs of the fees.

What did small businesses say?

Stakeholder consultation and analysis highlighted the current lack of transparency of fee information as well as lack of consistency in fees. Many small businesses expressed that they feel there is a lack of clarity on what they need to pay and on the charge components.

Public engagement following the release of the draft Action Statement confirmed that transparency for fees as practical reform. Many businesses indicated that a lack of certainty around fees makes forward business planning difficult. One submission applauded making fees more transparent, as has the Victorian Chamber of Commerce and Industry (VCCI). Both responses, along with others, have highlighted that this reform will make it easier for businesses. VCCI also said it is supportive of the activities set out in the draft Action Statement and welcomes the practical focus on improving the regulatory experience of small business owners.

Reform description

DHHS will work with councils to develop a template that lists all the fees each council may charge under the Act. The template will be prominently displayed on each council's website. The template will give a high-level breakdown of the components of the fees, particularly inspection and administration fees. Development of this template could be within the remit of the co-designed guidance notes in Reform 3.1.

Under this reform, councils will still have autonomy on the levels of fees charged and will still be able to offer additional optional services that are not prescribed in the Food Act.

How this will happen

DHHS will work alongside councils and other stakeholders (such as MAV) to implement Reform 3.2 and develop a template that councils can use to publish their fees on their respective websites.

Benefits to small business

There are several benefits to small business including:

- Increased fee transparency will give business the ability to properly understand and plan for their start-up costs
- Understanding the fee structure will assist business in seeing the value for money in the services they receive from councils
- It may result in councils reviewing the way that they calculate fees and the fee types they currently use.

3.3 Enhance the *Streatrader* website

What's the problem?

Despite the substantial success of *Streatrader* at promoting trade across council boundaries, further enhancement can be made to maximise its value. *Streatrader* is the online registration system for

mobile and temporary food businesses. Currently, councils upload various levels of compliance information onto the platform, limiting its usefulness as a tool to drive risk-based regulation. Efficiencies for business can also be achieved by improving the online communication between event organisers and food business operators

What did small businesses say?

Councils upload different levels of information onto Streatrader, limiting its ability to be used as a tool to drive risk-based inspection. For instance, some councils upload the full compliance report after an inspection, some only report adverse findings, while others only tick the box that a business has been inspected. Compliant businesses may be inspected multiple times, meaning Environmental Health Officers time could be better spent elsewhere.

This variability in information limits the usefulness of the Streatrader system when a neighbouring council allocates resources to inspect mobile businesses. That is, they do not have the full information to be able to focus on higher risk traders.

Statements of trade must be lodged five days in advance, limiting business mobility on some occasions.

Public engagement following the release of the draft Action Statement confirmed that enhancing the use of the Streatrader website will give good outcomes as it will take less time for a business to get an application approved. DHHS is supportive of this measure, as it supports public health aims.

Reform description

The existing successes of Streatrader will be built on through a range of improvements, including:

- Council Environmental Health Officers will upload full inspection reports within an agreed timeframe to ensure compliance history information is up-to-date and accurate. Easily accessible inspections reports will allow the officers to make more risk-based decisions on whether an inspection of a specific business is warranted.
- Communication between mobile and temporary food vendors and event organisers will be automated. This can be achieved via either:
 - automatic forwarding of a Statement of Trade (SOT) to a registered event coordinator via the Streatrader platform; or
 - providing event coordinators with their own Streatrader login whereby they can check SOTs for each of their food vendors.
- Notification wait periods will be reduced from five business days to one business day. The requirement for a five-day waiting period dates to a time when a SOT was manually handled.

How this will happen

The following reforms will be implemented collaboratively to enhance the Streatrader website and the regulation of mobile and temporary food businesses. Suggested steps are:

- Environmental Health Officers from all councils to upload full inspection reports to Streatrader within an agreed timeframe to enable risk-based inspections of food businesses by other councils (supported by appropriate guidance notes).
- Provide further guidance to councils on the grounds on which a statement of trade can be declined.
- Reduce the five-day notice requirement for statements of trade, to a one-day notice.
- Automate the communication of SOTs to event organisers via Streatrader.

Benefits to small business

There are a number of benefits to small business, including:

- Businesses will have full confidence that their SOT will be accepted if applied for directly via the Stretrader website, saving time and money
- Faster approval will provide business maximum time to plan their activities
- A decreased waiting period will increase flexibility for small business wanting to move around more frequently
- Mobile and temporary food vendors that trade in multiple events will not need to engage in multiple tasks.

3.4 Simplify record-keeping requirements

What's the problem?

Record keeping requirements under the Food Act can be onerous and administratively complex. It takes time to capture the data, record it and then store the records. For many low-risk businesses (e.g. some retail class 3 businesses), some reporting requirements do not have a direct connection to food safety outcomes.

What did small businesses say?

The co-design process revealed that food businesses consider compliance activities pose the greatest burden. Environmental Health Officers advised that some reporting requirements may not provide an accurate indication of whether businesses are complying with food safety obligations, and do not enhance food safety outcomes. Some councils stipulate that these records need to be kept onsite at the food premises and the business owner must be able to show the previous 12 months' worth of records on request or at the time of inspection by the Environmental Health Officer.

Public engagement following the release of the draft Action Statement confirmed that reducing record keeping has been well received by those directly involved in the food business and those peak bodies aligned with the food business. An individual submission was complimentary at the proposed reform, as were VCCI, the Red Tape Commissioner and Commerce Ballarat, with acknowledgement that making and keeping these records do not always lead to better safety outcomes. Even though there will be considerable simplification of record keeping for Class 3 food businesses, it will still be required to keep records for traceability requirements and will not impact on the food recall program for public safety.

Reform description

Amend the way that 'minimum records' (e.g. refrigerator temperature) requirements are applied for lower risk businesses where the food safety outcome is not directly connected to the keeping of the record.

This reform will not impact on any business that currently has a food safety program in place.

How this will happen

Working in collaboration with DEDJTR, MAV and councils, DHHS will:

- Amend the record-keeping requirements (e.g. refrigeration temperature) gazetted under the Food Act 1984 for lower risk businesses (e.g. retail Class 3 businesses).
- Remove annual mandatory inspections for good performing retail class 3 food businesses at the discretion of the council (but subject to uniform criteria).

This recommendation will not impact on the food recall program requirements imposed on many businesses under the Food Standards Code, including the requirement to keep records of suppliers for traceability purposes.

DHHS will continue to promote the application of risk-based regulatory principles for the protection of public health under the Food Act. This may result in less costly regulation for high performing

businesses and increased oversight, for poorer performing businesses that pose a greater risk to public health. Coupled with more transparency of compliance outcomes, this approach will provide incentives for better industry performance and reduce the cost of regulation.

Benefits to small business

KPMG estimated there may be savings of \$16 million once this reform has been implemented²². There will be an 80 per cent reduction of reporting requirements for all retail class 3 businesses, so there are potential savings of \$12.8 million. The remaining 20 per cent will require some supplier information for possible product recalls.

There will be reduced reporting costs and disruption to operations. It will also reduce the need to store these records in an area in the business for quick referral.

3.5 Establish an online portal for fixed-premises food businesses

What's the problem?

Victoria currently has at least 45,500 registered fixed food businesses.²³ Typically, each of the 79 councils operates its own database and maintains unique registration forms and processes for fixed food businesses. Each council has different requirements that make it difficult for small businesses with premises in more than one local government area.

What did small businesses say?

Each council having their own forms and processes for fixed premises food businesses results in confusion and uncertainty. This is especially the case if a business has premises in different council jurisdictions.

Public engagement following the release of the Draft Action Statement confirmed that undertaking a business case for an online portal for fixed-premises food businesses was also welcomed. Commerce Ballarat has said this will assist their members in the long-term.

Reform description

Since the release of the Draft Action Statement, DHHS has undertaken a business case to assess the costs and benefits of creating a database or portal that centralises food registration and compliance processes. The option to add this feature to the Streatrader website and centralise the application processes for food safety was investigated.

Having a standardised process will allow quicker processing time for councils; help manage the compliance history for the premises; and facilitate information sharing across councils and the Department of Health and Human Services, particularly in the event of a product recall or investigation.

How this will happen

DHHS has completed a business case to analyse the cost and benefits of developing an online application portal including a single database (similar to Streatrader but for fixed premises). The portal would include:

- A standardised online form and process.
- Review and process application functions for councils.
- Fee information, payment options and invoicing functions and general account management for food businesses.
- Management of compliance history and food safety program information.

²² KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 64.

²³ Internal report, Department of Health and Human Services, December 2016

- Availability of 'live' data and information about food businesses, which can be used in the case of an outbreak or investigation.
- A reporting function for councils to send reports to DHHS and Local Government Victoria.

Benefits to small business

Initial estimates by KPMG suggested savings of about \$0.6-\$1.8 million per annum. After the public release of the draft Action Statement, DHHS commissioned the Nous Group to undertake a business case to better understand the benefits and cost of this reform.²⁴

The business case estimated the savings from this reform to be approximately \$3.3 million. These savings accrue to existing fixed food retail businesses in the first year, and expected new food retail businesses over years two and three.

In addition, the business case identified an additional \$2.57 million per annum starting from the first year after implementation commences for food business registration renewals.

The reduction in regulatory burden for business is expected from the increased efficiency in accessing clear, consistent and user-friendly food safety information and requirements, and reduced cost for business owners to transact with councils.

More broadly, benefits to small business will include:

- Improved ease of engagement with food regulators, resulting in reduced costs
- Improved consistency will make it easier for businesses when they apply, as there will be full transparency regarding requirements and the application process
- Increased consistency for those businesses operating across different council areas, reducing the time and cost impost on business
- Improved public health benefits when managing outbreaks and investigations involving food businesses as live and recent data about the business is readily available
- Reduced inspections for businesses with good compliance histories, resulting in reduced costs and disruptions
- More sharing and standardised compliance procedures creating efficiencies in workforce mobility and streamlining of training when Environmental Health Officers move from one council to another (which is common).

²⁴ KPMG Potential impacts of regulatory reforms on Victorian small retail businesses 2017

Reform Area 4: Retail leases

Make retail leases fairer and easier to understand

The *Retail Leases Act 2003* is in place to enhance the certainty and fairness of retail leasing arrangements between landlords and tenants. However, several issues relating to retail leases have been raised.

4.1 Timely information for tenants

What's the problem?

Prospective tenants

The timing in the Act for providing information does not enable businesses to make informed decisions when entering a lease. Currently, when first entering a lease, the relevant section of the Act (Section 17) requires the landlord to provide a copy of the disclosure statement and proposed lease to the prospective tenant as soon as the landlord enters negotiations, at least seven days before entering a retail lease. Small businesses have reported that seven days is insufficient time to review the document or seek professional advice.

Existing tenants considering options to renew

The timing in the Act for providing information does not enable tenants to make an informed decision when considering renewing a lease. There is currently no deadline for when landlords must provide details of the proposed rent to tenants and the requirement to provide a disclosure statement follows the tenant's exercise of the option. In many leases (including the standard commercial leases from the Law Institute of Victoria (LIV) and the Real Estate Institute of Victoria (REIV) the deadline for a tenant to exercise an option to renew a lease is three months prior to the end of the current term. In practice, many tenants are required to make their decision to exercise their option without knowing what the rent will be for the period covered by the option or significant changes to their lease. Without knowing this information, tenants are not able to make a fully informed decision.

Section 27(1)(d) of the Act includes that a lease will state how the rent will be determined for the renewal period (if the lease has options for renewal). However, in practice the lease may only state that the rent for the subsequent period will be determined through a market review. This does not provide adequate certainty for the tenant.

If the rent in the renewed lease following the exercise of an option is higher than the tenant was expecting, the tenant can commence a formal process to review the rent through the appointment of a Specialist Retail Valuer (SRV) by the VSBC. Costs of the SRV are equally shared between landlords and tenants. The costs of this service vary depending on the property. In 2015–16, the Specialist Retail Valuer fees reported to the VSBC ranged from \$3,300 to \$22,000, with an average fee of \$6,700.

What did small businesses say?

Respondents to KPMG's Small Business Review identified retail leasing as the fifth most costly area of regulation for small retail businesses. The Australian Retailers Association (ARA) noted that retail tenancy in Victoria has consistently been one of the biggest problems for its members. The association further noted that available data on retail disputes does not represent the extent of the problem. In some cases, there is fear of retribution among retailers around reporting such issues. In addition, retailers (particularly small businesses) often do not know their legal rights, or cannot afford to take disputes to court.

In submissions on the draft Action Statement, tenant representatives indicated broad support for the proposed reforms (below). Landlord representatives suggested that these issues could be addressed through improvements to the VSBC education program.

Reform description

Prospective tenants - Amend minimum timeframes for the disclosure statement and the proposed lease to be provided to prospective tenants, before entering a new lease.

Existing tenants considering options to renew - Explore legislative and non-legislative options to ensure that tenants are provided with all relevant price and non-price terms (including the rent for the first twelve months of a new term) a reasonable time before tenants must exercise an option to renew the lease.

How this will happen

1. Amend minimum required timeframes to require landlords to provide the following documents 14 days before entering a new lease:
 - A disclosure statement
 - The proposed lease (including rent, tenant particulars and the term)

This will provide new tenants with sufficient time to consider the details of the proposed lease and seek professional advice if necessary.

A mechanism will be available to waive the 14-day requirement with informed consent. For tenants who are confident entering retail leases.

To prompt tenants to carefully consider their lease rights and obligations, it is proposed that a simple checklist be featured on page one of the VSBC information brochure. The brochure will also be simplified to improve readability.

Landlords will also be required to highlight any changes between the final proposed lease the tenant receives and the previous version, where the changes were not solicited by the tenant.

2. Require landlords to notify current tenants six to nine months prior to the lease expiry of:
 - the date by which the option must be exercised
 - the rent for the initial period of the new term
 - their rights to an early rent review
 - any material changes to the last disclosure statement received.
3. Provide for an early rent review process.

The provision of an early rent review process, consistent with four other jurisdictions, will encourage landlords to act in good faith in setting rent for the first twelve months of the renewed lease. A new requirement to inform the tenant of any material changes to the last disclosure statement (in place of a new disclosure statement) serves as both a reduction in red tape and a focussed point of information provision. This would help tenants understand what would change in the next term of their lease.

Benefits to small business

These reforms will increase small businesses' confidence in making sound business decisions about entering new leases and enable them to renew existing leases with fewer surprises. It will also decrease the need to engage in costly and time-consuming processes for rental reviews, and will protect against paying excessive rent throughout a lease extension. As a result, fewer retailers will fail due to poor cost control through not making informed decisions, and more retailers will experience higher profits by improved cost control. Small business landlords and tenants will have a better understanding of their rights and obligations under the Act.

DEDJTR analysis estimated annual cost savings of between \$1.2 million and \$1.5 million for landlords and tenants based on a reduction in the number of disputes on rent resulting in the need for Specialist Retail Valuer reviews. This calculation is based on the average cost of a Specialist Retail Valuer review in 2015-16 of \$6700. In addition to this, further savings are likely from increased information on non-financial material changes to lease renewals.

4.2 Introduce a time limit for returning bonds and bank guarantees

What's the problem?

The *Retail Leases Act 2003* currently provides for the security deposit to be returned 'as soon as is practicable'. However, tenants often experience a lengthy delay awaiting the return of security deposits (cash bonds or bank guarantees). This includes situations where very minor amounts are in dispute relative to the amount of the guarantee. There is no financial limit on security deposits, and many are of significant value. Therefore, any delay in returning the deposit locks up a significant amount of capital and may stop small businesses from investing in new opportunities.

What did small businesses say?

The VSBC has noted that they are aware of regular disputes concerning the length of time taken to return a bond or bank guarantee. Industry submissions to the draft Action Statement indicated broad support for a defined timeframe for the return of security deposits, provided that the obligation follows the completion of the tenant's obligations.

Reform description

The reform introduces a time limit of thirty days for returning bonds and bank guarantees to the tenant after the lease expires. This period will commence when all obligations under the lease have been executed. This reform will not impact on a landlord's right to recover costs.

How this will happen

Amend the *Retail Leases Act 2003* to require landlords to return security deposits within thirty days of a tenant fulfilling its obligations under the lease.

The thirty-day timeframe has been identified to provide consistency with timeframes in the Australian Supplier Payment Code. It is also recognised that typically a landlord will have at least three months' notice of a tenant's termination of a lease, providing the landlord with four months to arrange for a return of the security deposit contingent on the tenant meeting its obligations.

Benefits to small business

Having a time limit to return bonds or bank guarantees will free up capital for small business retailers, who often need to access their capital quickly to start up their next business venture. Small businesses will have increased confidence in making business decisions knowing that they can take on new leases or invest in other aspects of their business.

In addition to the opportunity cost for small businesses in accessing this capital earlier, DEDJTR estimates that the savings in interest for small businesses from this reform would be approximately \$3 million per annum, with a further potential saving of \$0.25 million per annum from a reduction in disputes through the Victorian Small Business Commission.

4.3 Improve standard retail leases

What's the problem?

Many small businesses have difficulty understanding their obligations under a retail lease. As leases are specific to the premises, there is limited guidance material to assist with all aspects of the lease, meaning that some small businesses engage lawyers before signing a lease. Standard commercial

leases are available from the LIV and the REIV for purchase at moderate cost²⁵. Landlords may continue to re-use a standard commercial lease for a number of years while unaware of, or unwilling to pay for, an up-to-date version.

In submissions, landlord representatives raised concerns that leases are inherently complex and the development of a standard retail lease may raise the number of disputes. However, the current LIV and REIV standard leases may cause some confusion as both cover retail leases and commercial leases, including terms that do not apply for retail leases.

What did small businesses say?

Industry stakeholders including the Australian Retail Association have advised that their members often face issues at the end of lease when they first realise their obligations to leave the premises in a certain condition. This can cause significant problems in terms of getting their bond back and using their capital to start another venture.

Leases are highly technical and it can be costly for small business landlords and tenants to obtain legal advice in drafting and interpreting leases. While legal advice may still be required before entering into a lease, that advice could be better targeted if tenants understand the key terms before seeking advice.

Reform description

Encourage the development of a retail specific lease by seeking modifications to standard leases currently in the market to enhance understanding of legal rights and obligations under the Act.

How this will happen

The VSBC and SBV will engage with the LIV and the REIV to encourage the development of a standard lease tailored specifically for retail premises and accompanying guidance documents.

Guidance will be translated into languages with high numbers of non-English speakers and new business owners.

The VSBC will also develop and promote a range of 'Top Five Tips' sheets focusing on particular tenant issues (for example, new shopping centre leases, considering options to renew leases, assigning leases).

Benefits to small business

Availability of leases tailored for retail premises will help improve implementation of the Act and reduce the number of leases that include conditions that contradict the Act and will also assist small landlords by reducing their leasing costs should they wish to prepare their own leases. Guidance material will assist tenants to understand clauses contained in retail leases that are most prevalent in the market.

The VSBC tip sheets will provide succinct information, increasing readership of important information by retail businesses that are faced with making important decisions during the tenancy lifecycle.

²⁵ For example, the Law Institute of Victoria charges \$85.00 for a pack of five leases. The Real Estate of Victoria currently makes standard leases available to its members only.

