

Department of Environment, Land, Water and Planning

1 December 2017

**RE: Discussion Paper – Reforming the Victoria Planning Provisions, October 2017**

Please find attached submission from the Victorian Local Governance Association (VLGA) to this discussion paper

[Redacted]

Kind regards,

[Redacted]

[Redacted]

[Redacted]

[Redacted]

## **VLGA Submission - Reforming the Victoria Planning Provisions.**

### **Introduction**

The Victorian Local Governance Association (VLGA) welcomes the opportunity to provide a submission to the Discussion Paper – Reforming the Victoria Planning Provisions, October 2017.

The VLGA will respond to the discussion paper in general terms and the VLGA submission will be informed by our mission with a particular focus on council and community governance and increasing civic participation.

It is worth noting that the Local Government Act (1989) is currently being re-written and information available to the VLGA indicates that community engagement and participation in council decisions will be a major feature of the new Act. Notwithstanding this, the VLGA would like to highlight the competing stated objectives of the Local Government Act and the Planning and Environment Act and the challenges facing elected councillors when making planning decisions.

### **Key issue**

The VLGA is generally supportive of the SMART Planning Program and its aim of building a planning system that is simpler and more flexible. We are particularly supportive of better use of technology to deliver more accessible planning schemes and information. However, the VLGA is concerned that some local individual council objectives and strategies may be lost or diluted in proposed changes.

The VLGA is not convinced that all proposed changes will respond to increasing tensions that exist in the community about development and the growing perception in some areas that the planning system is failing to protect the livability of suburbs. Councils, consisting of elected councillors are required to be *“acting as a representative government by taking into account the diverse needs of the local community in decision making (s.3D)”* under the Local Government Act (1989).

Moreover, the Local Government Act states the primary objective of council is *“to endeavour to achieve the best outcomes for the local community having regard to the long term and cumulative effects of decisions (s.3C)”*.

The emphasis on local community in the Local Government Act is at odds with the requirements on councils under the Planning and Environment Act (1987), where the State planning framework is given equal if not higher consideration when deciding on planning applications, particularly for large scale developments.

It is also worth noting that the words “long term”, “cumulative” and “local community” are absent in the Planning and Environment Act.

The VLGA therefore contends that any improvements to the planning system must not be at the expense of the stated objective of councils as responsible authorities acting in the interest of their local community, and local issues such as sustainability, housing affordability and cumulative social impacts of developments must not be diminished as a result.

The VLGA sees community participation as critical to achieving good planning outcomes and would oppose any changes introduced that remove the ability of community members to meaningfully participate in the future development of their suburbs and neighbourhoods.

Many Victorian councils are currently undertaking lengthy and expensive reviews of their planning schemes. Given the uncertainty about the “transform” component of the change process, we question the appropriateness of the process as it has been laid out.

## **Specific issues**

### *Liquor and gaming*

The VLGA is opposed to any move to reduce the role of councils in gaming and liquor planning. Whilst we acknowledge a small amount of duplication in the planning and licensing process, significant differences remain. Councils have a strong understanding of the local social issues around gaming and liquor licensing. They are also invested in outcomes that reduce the adverse social impacts of such applications. For this reason, we are supportive of creating a stronger policy basis within the planning system that takes into consideration the net community impacts of these land use activities. We believe that this is doubly important and timely given the government commitment to reducing family violence. The density of alcohol outlets and poker machines have both been associated with increased family violence and Victorian planning provisions should align with broader government objectives in this regard.

We further note that there is no legislated requirement for community engagement and consultation by the Victorian Commission on Gambling and Liquor Regulation (VCGLR) in the current licensing application and assessment processes. The VLGA believes that community engagement and consultation is an essential feature of local government and can lead to vastly improved outcomes for the local community – it is the very reason why it will be a principle of the new Local Government Act (currently being re-written). It would be detrimental to good community outcomes if the roles local councils are diminished in assessment of gaming and liquor planning applications, unless these requirements are mandated to the VCGLR via legislative changes.

The VLGA is concerned that some planning processes for licensing and gaming applications already exclude community members. In particular, urgent clarification is currently required to ensure that urban growth zone provisions which exclude advertising and third-party review rights do not apply to 52.27 and 52.28. Any future changes must guarantee that advertising and third-party appeal rights are never extinguished in planning processes for electronic gaming machines.

### *Affordable housing*

Some Victorian councils are seeking very proactive measures to guarantee affordable housing supply in the land rezoning processes. Councils are also looking at land value capture on council and crown land and considering its potential to create new social and affordable housing opportunities. Diversity is a fundamental building block of healthy communities, and it will not exist without affordable housing supply. To date, councils have been limited in what they can achieve in this area.

The VLGA applauds the passing of the Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Bill 2017. We understand that the Department of Environment, Land, Water and Planning (DELWP) is currently working with councils and other stakeholders in its implementation. The VLGA is optimistic that new measures to facilitate affordable housing should make it easier for councils to work with developers to achieve better outcomes for the community in this regard.

#### *Process*

The VLGA has concerns regarding the lack of funding available for the “transform” part of the proposed reform package. Many councils have committed significant investment in review of their planning schemes post the 2016 council elections. The prospect of significant change is problematic at this point because of the potential for loss of resources in these reviews. There is also potential for loss of faith by community and other stakeholders who participated in the reviews to date as the proposed “transform” processes do not guarantee certainty of outcome.

We urge DELWP to present draft changes to the sector for further consultation and feedback prior to the gazettal of any changes. The mid 2018 timeframe suggested at this stage seems overly optimistic if this is to be achieved.