

Making it easier to do business in Victoria

Small Business Regulation Review: Retail Sector
Detailed descriptions of the Draft Action Statement reforms



**SMALL
BUSINESS VICTORIA**

Introduction	3
Reform Area 1: Access to information – Make it easier to discover what is needed to start and grow a business	5
1.1 Modernise business.vic and promote ABLIS.....	5
1.2 Write for business not bureaucrats	7
1.3 No wrong doors.....	7
1.4 Take it to the people: use existing networks to distribute information.....	9
Reform Area 2. Approvals processes – Reduce the time taken for approvals	11
2.1 Introduce a council concierge service to assist businesses	14
2.2 Introduce a single application process for new businesses	16
2.3 Move from sequential to concurrent approvals processes	17
2.4 Remove low-risk approvals	20
2.5 Improve transparency on new business application processing times	25
Integrated Demonstration Project led by Local Government Victoria with volunteer councils.....	26
Reform Area 3: Food Safety – Make it easier to understand and comply with food safety regulation.....	29
3.1 Clarity for all – let’s administer the Food Act 1984 better	29
3.2 Fee transparency for food regulation	30
3.3 Enhance the Streatrader website.....	31
3.4 Reduce record-keeping requirements.....	32
3.5 Undertake a business case for an online portal for fixed-premises food businesses.....	34
Reform Area 4: Retail leases – Make retail leases fairer and easier to understand	36
4.1 Timely information for tenants.....	36
4.2 Introduce a time limit for returning bonds and bank guarantees	37
4.3 Develop and distribute a free standard retail lease.....	38

INTRODUCTION

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.

The Victorian Government undertook a review to understand the areas of regulation that are the most burdensome for small 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).
- Thirteen 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 roundtables 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 200 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 around 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, including 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. These reforms, described in further detail in the following sections, are grouped into the following four reform areas:

Reform area 1: Make it easier to discover what is needed to start and grow a business.

Reform area 2: Reduce the time taken for approvals.

Reform area 3: Make it easier to understand and comply with food safety regulations.

Reform area 4: Make retail leases fairer and easier to understand.

REFORM AREA 1: ACCESS TO INFORMATION – MAKE IT EASIER TO DISCOVER WHAT IS NEEDED TO START AND GROW A BUSINESS

“What do I need to do to open my business?”

The Small Business Survey found that 43 per cent of respondents wanted simplified formats and easier access to relevant information about their regulatory obligations.¹

The focus of these reforms is to improve either the quality of information that the Victorian government provides to small businesses, or the channels and distribution mechanisms that government uses to reach small businesses.

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

- 1.1 Modernise business.vic and promote the Australian Business Licence and Information Service (ABLIS)
- 1.2 Write for business not bureaucrats
- 1.3 No wrong doors
- 1.4 Take it to the people: use existing networks to distribute information

Several of these reforms focus on aspects of existing websites, specifically: business.vic (which is an important resource for businesses across Victoria to help them start up, develop and grow) and ABLIS (which helps businesses find the government licences, permits, approvals and other key compliance related resources).

These four reforms will 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.

1.1 MODERNISE BUSINESS.VIC AND PROMOTE ABLIS

What’s the problem?

Research undertaken by consultants for Small Business Victoria suggests that business.vic 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 that is 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.

¹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 25.

What did small businesses say?

Business owners reported that it is hard to find answers. 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.”²

When asked 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.”³

Reform description

Overhaul the business.vic website and promote the 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 the 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.

How this will happen

New content for the website will be co-designed that is specific and tailored to the needs of website users. Where possible, current digital technology will be used to increase engagement with the website. This may be achieved through means such as case studies, small business examples, articles, gamification, infographics, diagrams, pictures, videos, flowcharts, YouTube videos, analytics, or chat bots. Information content and delivery will be tailored according to business need. The Victorian Government will continue to work with the Commonwealth Government on the development of the second generation of ABLIS, including improving interfaces for application processes (Application Programming Interfaces).

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.

² KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 27.

³ KPMG: Potential impacts of regulatory reforms on Victorian small retail business 2017, p. 26.

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.⁴

1.2 WRITE FOR BUSINESS NOT BUREAUCRATS

What's the problem?

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

Reform description

Small Business Victoria will develop a public rating system for business-facing Victorian regulators' websites. Small Business Victoria will review government websites that provide information to business against an agreed set of criteria. It will publish the results to enable a comparison of which websites provide the most business friendly and accessible information. 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 will help to increase the quality of communications by regulators. This in turn will assist small business owners to better understand regulations and compliance issues. The involvement of Small Business Victoria and the recognition of excellence (e.g. awards) will encourage improvements by introducing an element of competition and best practice.

How this will happen

Small Business Victoria will identify the guidance material needs of small business and develop assessment criteria. 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 by becoming champions.

1.3 NO WRONG DOORS

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 have regulatory

⁴ KPMG: Potential impacts of regulatory reforms on Victorian small retail business 2017, p. 35.

information. As a result, businesses may be 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 and mapped to ensure that answers are accessible.

Reform description

This reform has two elements:

- **Provide business with a regulatory journey map** that 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 (what comes first).
 - Fees.
 - Indicative timeframes.

The 'conciierge' 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.

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

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 particularly vulnerable to mistakes, which can lead to unexpected costs and time pressures.

KPMG reported that, 'in a number of circumstances, businesses reported being provided with incorrect information from sources they assumed to be knowledgeable and accurate. Such sources included contact with local government. Businesses reported the impact of incorrect information or advice as contributing to lengthened approval times.'⁵

Benefit to small business

A more connected system that is easier for businesses to navigate will reduce financial and time costs of compliance for small businesses, as well as any extra effort currently required to understand regulations. 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

Small Business Victoria will develop the regulatory journey map of the system and promote the business.vic website across other government regulators. The aim is that the regulators will see the value in providing a link to the business.vic from their own website, and also in

⁵ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 26.

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 a map of existing regulator communications to identify and recommend options.

Small Business Victoria 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 putting up the 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 do not sufficiently use the many networks of intermediaries that are available. 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.

Reform description

The Victorian Government will leverage intermediaries that businesses trust to develop the best methods for the distribution of information about small business. 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.

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.⁶

Businesses principally consider that regulators have an enforcement role, rather than an information and education role to promote compliance.

⁶ ATO – Small Business Engagement – Final Report, TNS Social Research Consultants, Rutley, Elliott and Tatarynowicz, March 2016.

Benefit 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 more timely 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

Small Business Victoria will develop a network of trusted advisers and supply them with information to provide to their small business clients. The goal is to inform and support small businesses through channels that small businesses trust. Small Business Victoria will work with intermediaries to further develop good-quality tailored information that is readily available.

Small Business Victoria will engage with:

- **Business advisers**, including Certified Practicing Accountants and bookkeepers.
- **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.

This will leverage the existing Small Business Victoria calendar of events, many of which involve intermediaries.

REFORM AREA 2. APPROVALS PROCESSES – REDUCE THE TIME TAKEN FOR APPROVALS

“It takes too long to get approvals”

Reform Area 2 involves introducing a suite of reforms to improve the approvals processes involved in starting a new retail small business. Consultations with small businesses 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:

- Thirty-eight per cent of respondents said this was the most difficult phase of their business.
- Forty-one per cent considered shortened approval times a priority measure that could reduce regulatory burden for business.
- Thirty-two 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

2.1 Introduce a council concierge service to assist businesses

Introduce a concierge service within local councils that will provide a single entry point for approvals processes administered by local councils.

2.2 Introduce a single application process

Establish a single application form for the approvals and registrations typically needed to start a new business. It will include all council-administered application forms and the state administered liquor license forms.

2.3 Move from sequential to concurrent approvals processes

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

2.4 Remove low risk approvals

Remove current permits that are not consistent with a public need and add significant costs to establishing a business. This will include replacing permit regimes with codified 'as of right' standards for low risk activities administered by local councils and increasing the types of applications that fit within the fast-tracked VicSmart process.

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.

Potential estimated annual cost savings to small retail business from reforms 2.1 – 2.3 of between \$46m – \$93m; and from reform 2.4 of between \$6.3m – \$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**.⁷

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**.⁸

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.
- **Single application** – reduce the number of forms to fill out and provide a single point of entry so that all relevant areas of council can get started processing applications straight away.
- **Concurrent processing** – this reform will move council processes from sequential to concurrent and make them more coordinated across council areas. This will reduce duplicative requests for information, inspections and public notifications, and will make council processes operate more like ‘swim-lanes’. Rather than passing a business 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.
- **Remove low-risk approvals** – this reform will remove permit requirements that add unnecessary delay to the total time it takes to obtain permits needed to start trading. A key change here is to remove about 6500 portable signage permits and 4300 footpath trading permits and convert them to codified ‘as of right’ standards.⁹
- **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.

The Small Business Survey found that the key factors influencing the approval application experience and overall approval time to start a business were:¹⁰

- **The ability of business to effectively sequence their approvals** in order 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.

⁷ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

⁸ As above, p. 41.

⁹ As above, p. 48.

¹⁰ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 17.

- **The relative capability and capacity of councils** to efficiently and effectively process applications and provide accurate information and assistance to businesses where required.

Local Government Victoria will lead an Integrated Demonstration Project to implement the full suite of approvals process reforms. For further information on this project refer to page 32.

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 can often be 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.

Reform description

Introduce a concierge service within councils that will provide a single entry point for approvals processes administered by councils.

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.

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 also 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 was better information upfront and a more coordinated applications processes among regulators.

How this will happen

Local Government Victoria will lead an Integrated Demonstration Project in conjunction with three to five volunteer councils to implement the full suite of approvals process reforms. Small Business Victoria will provide support to this project. Refer to page 32 for further information on the demonstration project.

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).
- 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

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

¹² As above, p. 41.

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.

Reform description

Reform 2.2 consolidates the currently separate application forms into one form and application process to allow businesses to apply once for all council-administered approvals necessary to start a new business.

Local Government Victoria will work with a group of demonstration 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 and would then consider the benefits 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.

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.

The majority of 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 the regulatory burden.

How this will happen?

Local Government Victoria, in conjunction with three to five volunteer councils, will implement the full suite of approvals process reforms through the Integrated Demonstration Project. Small Business Victoria will provide support to this project. For further information on this project see page 32.

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.
- Ensures accurate and complete applications are submitted.

KPMG estimates that the 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**.¹³

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**.¹⁴

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 in order 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.

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:

¹³ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

¹⁴ As above, p. 41.

- 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.

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.

How this will happen

Local Government Victoria will implement the full suite of approvals process reforms in conjunction with three to five volunteer councils through the Integrated Demonstration Project. Small Business Victoria will provide support to this project. For further information on this project refer to page 32.

Elements of the Integrated Demonstration Project aimed at moving from sequential to concurrent approvals processes are summarised in the following list.

- **Introduce a case management model**
Local Government Victoria will work with volunteer councils to develop a case management model as a coordinating mechanism to reduce the time taken to process business applications. Features include:
 - A multi-disciplinary team comes together to discuss how new applications will be handled. It undertakes an initial assessment to 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 council areas 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 the planning area).
 - The lead council area will coordinate council areas to process all the applications for the business application.
 - The lead council areas 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.

The case management approach will be implemented flexibly to suit the individual circumstances of specific councils. The approach could be supported by 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 and the progress of each area of council so that all can see where each element of the application is up to.

- **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**
 - Local Government Victoria will lead the development of a model for joint public notifications of planning and liquor licence applications, in consultation with the VCGLR and the Department of Justice and Regulation. This will ensure that business applicants are not required to undergo two separate public notification processes in relation to the same development.
- **Reduce the number of requests for information**
 - Local Government Victoria 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.
 - Local Government Victoria will lead the development of a model to promote joint requests for information from councils and the VCGLR.
- **Promote joint site inspections**
 - Local Government Victoria 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**
 - Local Government Victoria 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 like 'swim-lanes', as opposed to the current process where a business application is passed from one council area to the next sequentially once the area is finished processing the application. A key change here will be to promote concurrent processing of planning permits and liquor licence applications. 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.

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**.¹⁵

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**.¹⁶

2.4 REMOVE LOW-RISK APPROVALS

What's the problem?

There are several regulatory processes that are more onerous than necessary to control the 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.

Reform description

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

Reform 2.4 will:

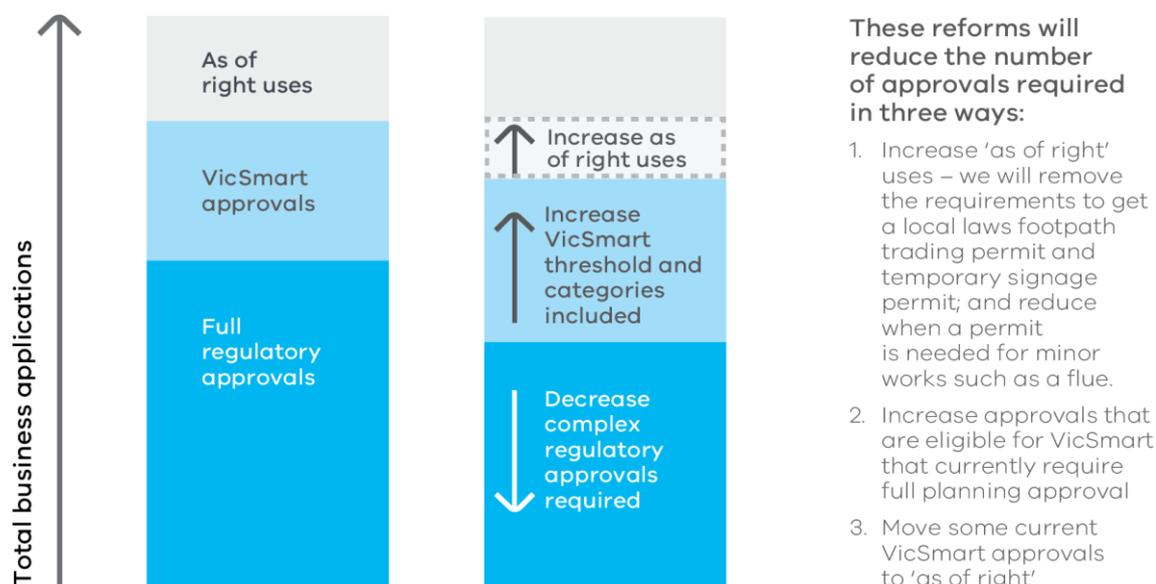
- Replace local laws permit regimes with codified 'as of right' standards for low-risk activities administered by councils.
- Expand the scope of existing exemptions in relation to specific planning issues to remove unnecessary permits.
- Simplify planning regulations for businesses by reviewing the 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.

¹⁵ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 42.

¹⁶ As above, p. 41.

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



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.

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 proposed demonstration program.

The reform to codify local laws permits into an 'as of right' standard will be included in the Integrated Demonstration Project led by Local Government Victoria. For more details on the project refer to page 32.

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

Move from permit regimes to codified 'as of right' standards for low-risk activities

Local Laws permits

Each council typically enacts an 'Activities Local Law' that includes a permit regime for footpath trading and A-frame 'sandwich' signs. The permitting regime around these activities is not consistent with risks to the community.

Reform:

- Local Government Victoria will work with volunteer councils to develop a template 'as of right' standard for:
 - Footpath trading
 - Temporary signage

Several councils already have guidelines for these licences in place. Essentially this reform will use these guidelines as a starting point for the 'as of right' standard.

An application process (similar to what is currently in place) would remain for applications that fall outside the 'as of right' standard. The requirement for approval from the Victorian Commission for Gambling and Liquor Regulation for the service of liquor would not be covered by the 'as of right' standard.

Expand 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 as follows:

“This does not apply to:

- 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:

- The Department of Environment, Land, Water and Planning will review rules in relation to works to the external façade of buildings to identify opportunities to expand 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:

- The Department of Environment, Land, Water and Planning will review existing signage rules to identify opportunities to expand 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.

Reforms:

- Through demonstrations with three to five volunteer councils, Local Government Victoria will work with councils to prepare a traffic impacts report that covers its council area (to be updated periodically). 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

The Smart Planning Program that is being led by the Department of Environment, Land, Water and Planning 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 include reforms to simplifying 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.

The Department of Environment, Land, Water and Planning 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.
- **Car parking:** Increase the number of car parking spaces for which applicants can seek a 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.

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:** The review 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 any proposed expansion of a land use activity already approved by existing planning permits for an existing site 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 premises' internal layout plans endorsed by the planning area within councils 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 'as of right' standards

These reforms include codifying local laws permits for footpath trading and portable signage into a 'as of right' standards. This will form 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**.¹⁷

Reform to car parking requirements

These reforms include moving from councils routinely requiring applicants to commission consultant traffic impacts 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**.¹⁸

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**.¹⁹

¹⁷ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 48.

¹⁸ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 52.

¹⁹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 56.

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 the 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.

Reform description

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 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.

One of the outputs of the Integrated Demonstration Project (described on page 32) will be to develop new economic development indicators that reflect the learnings from the demonstration and embed performance expectations that will incentivise coordinated service delivery to 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.

What did small businesses say?

Small businesses reported that delays in obtaining permits from councils cost them significant time and money.

How this will happen

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

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.

INTEGRATED DEMONSTRATION PROJECT LED BY LOCAL GOVERNMENT VICTORIA WITH VOLUNTEER COUNCILS

Project description and governance

The Integrated Demonstration Project will bring together the different elements of the approvals process reforms outlined in the *Draft Action Statement* (Reforms 2.1–2.5). The project is a flagship reform coming out of the Small Business Retail Review.

It is proposed that Local Government Victoria lead the project and be responsible for project governance and oversight. Because this suite of reforms involves change at the council level, the volunteer councils will be responsible for designing and implementing the change on the ground. The councils involved in the demonstration project will each be shadowed by a council to undertake the next round of the rollout. Small Business Victoria will provide support.

The following table summarises proposed agency responsibilities:

Agency	Role
Local Government Victoria	Lead project oversight, evaluation and co-design products
DELWP Planning	Input on planning matters
Councils	Lead prototype implementation and co-design products, provide peer leadership and support
Small Business Victoria	Industry oversight
Victorian Commission for Gambling and Liquor Regulation	Assist in identifying opportunities to make liquor licensing concurrent with planning
Industry groups including local chamber of commerce	Industry implementation and co-design products

Volunteer councils will be recruited through an Expression of Interest process, with councils nominating themselves to participate.

The demonstration project will implement the suite of approvals process reforms within the volunteer councils. The following table sets out the relevant reforms and the high-level implementation steps.

Reform/steps	Outputs
<i>Expression of interest process</i>	
Develop expression of interest documentation/implementation plan, and publish to 79 councils and manage responses.	<ul style="list-style-type: none"> Draft developed for approval in six weeks.
Council responses outline their current state against the proposed reforms, and what changes they will make.	<ul style="list-style-type: none"> Responses prepared by volunteer councils.
<i>Implementation of demonstrations</i>	

Introduce a concierge within councils to assist businesses to lodge correct and complete applications.	<ul style="list-style-type: none"> • Design concierge model. • Trial concierge.
Introduce a single application process for new businesses – the main objective here will be to develop model template application forms by key business type, as a first step towards customisation of a single application.	<ul style="list-style-type: none"> • Develop model standard single application form to be tailored as appropriate by each individual council.
<p>Move from sequential to concurrent approvals processes:</p> <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 requests for information from council areas and the VCGLR • Joint site inspections by council areas 	<ul style="list-style-type: none"> • Develop case management system in each demonstration council. • Trial case management system in each demonstration council. • Develop model case management system to be rolled out across other councils.
Develop 'as of right' standards to replace existing local laws permit regimes for footpath trading and temporary signage.	<ul style="list-style-type: none"> • LGV develop a model 'as of right' standard for footpath trading and temporary signage, in conjunction with volunteer councils and MAV. • Trial 'as of right' standards based approach in demonstration councils.
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.	<ul style="list-style-type: none"> • Develop new indicators. • Trial reporting against new indicators in volunteer councils.
<i>Evaluation</i>	
Develop and report against evaluation framework to estimate the costs and benefits of the demonstrations for councils and small businesses	<ul style="list-style-type: none"> • Develop evaluation framework. • Collect data to report against framework.

The key deliverables of the Integrated Demonstration Project are:

- Best practice models of how to implement each of the reforms within councils, with a view to using these models to rollout the reforms across the 79 councils.
- Evidence of the costs and benefits of the reforms to councils and small businesses.
- An implementation plan that includes:
 - which locations require this service on a priority basis
 - which councils are already doing something similar on an informal basis (for example, Dandenong, Kingston, Bendigo)

- existing resources/models that can be utilised
- required support for councils
- implementation issues associated with the varying levels of council resources and industry profiles, such as:
 - inner middle city have resources but need practice/process improvements
 - outer metro councils lack the resources and are more focussed on big businesses such as manufacturing
 - rural and regional mix might require pool resourcing
 - small business community segmentation (for example, multi-cultural).

REFORM AREA 3: FOOD SAFETY – MAKE IT EASIER TO UNDERSTAND AND COMPLY WITH FOOD SAFETY REGULATION

“The approach to food safety regulation is inconsistent”

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* 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 suboptimal 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 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 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 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 the Department of Health and Human Services and other 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. Further, 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.

Reform description

The Department of Health and Human Services 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.

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. Currently, many small businesses are neither clear on what they need to pay, nor clear on the components of the charge.

How this will happen

The Department of Health and Human Services will work alongside councils and other stakeholders such as the Municipal Association of Victoria (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 a number of 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.

Reform description

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

- 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 or not 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 either via:
 - automatic forwarding of a Statement of Trade (SOT) to a registered event coordinator via the Streatrader platform
 - providing event coordinators with their own Streatrader login whereby they are able to 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 back to a time when a SOT was manually handled.)

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 particular 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.

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 that a statement of trade can be declined.
- Reduce the five-day advance 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 Streatrader 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 REDUCE 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. retail class 3 businesses), some reporting requirements do not have a direct connection to food safety outcomes.

Reform description

Remove the requirement to keep 'minimum records' (e.g. refrigerator temperature) where there is no direct connection between the creation of the record and the food safety outcome.

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

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 or not 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.

How this will happen

The Department of Health and Human Services, working with DEDJTR, the Municipal Association of Victoria and councils will:

- Remove record-keeping requirements for retail class 3 businesses by removing the need to keep 'minimum records' as gazetted in the Food Act and make appropriate changes with consideration of risk profiles, compliance history and operations.
- Remove annual mandatory inspections for good performing retail class 3 food businesses at the discretion of the council (but subject to uniform criteria).
- Evaluate the Department of Health and Human Services Food Safety Program template over 12-24 months for class 2 businesses in producing safe food, while measuring the impact on food safety and burden reduction on small business for good performance.

Note: 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.

The Department of Health and Human Services 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, such as more frequent inspections, 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 implemented²⁰. 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.

²⁰ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 64.

3.5 UNDERTAKE A BUSINESS CASE FOR AN ONLINE PORTAL FOR FIXED-PREMISES FOOD BUSINESSES

What's the problem?

Typically, each council 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.

Reform description

A business case will be undertaken to assess the costs and benefits of creating a database or portal that centralises food registration and compliance processes. It will likely be added to the Streatrader website and would centralise the application processes for food safety. 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.

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.

How this will happen

A business case will be prepared 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.
- 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

KPMG has estimated the savings from this reform to be between \$0.6 million to \$1.8 million²¹.

There are a number of benefits to small business including:

- 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 imposed 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).

²¹ KPMG: Potential impacts of regulatory reforms on Victorian small retail businesses 2017, p. 60.

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, a number of issues related to retail leases have been raised.

4.1 TIMELY INFORMATION FOR TENANTS

What's the problem?

The timing in the Act for providing information does not enable businesses to make informed decisions when entering a lease and exercising an option to extend a lease. Currently, when first entering a lease, the relevant section of the Act (Section 15) requires the landlord to provide a copy of the proposed lease and Victorian Small Business Commissioner (VSBC) information brochure to the prospective tenant as soon as the landlord enters into negotiations. However, there is no definition of 'negotiations' in this context (e.g. enquiring about the price, or asking for a copy of the lease). Therefore tenants do not know when they are entitled to receive the proposed lease or information brochure. This lack of clarity also presents a number of difficulties for landlords, such as an ambiguity as to their legal requirements, and for the VSBC in terms of enforcing the provision.

When tenants renew a lease by exercising an option, there is currently no deadline for when landlords must provide details of the proposed rent to tenants. In many leases (including the standard lease from the Law Institute of Victoria and the Real Estate Institute of Victoria) 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. Without knowing this information, tenants are not in a position to make a fully informed decision.

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 vary depending on the property. In 2015–16, the Specialist Retail Valuer fees reported to the VSBC ranged from \$3300 to \$22000, with an average fee of \$6700.

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.

Reform description

- Amend the *Retail Leases Act 2003* to include a clearer definition and/or minimum timeframes of when the proposed lease and information brochure must be provided to prospective tenants.
- Explore legislative and non-legislative options to ensure that tenants are provided with all relevant price and non-price terms (including the proposed rent) a reasonable time before tenants must exercise an option to renew the lease.

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, costing \$32 million per annum. The Other Specialised Food Businesses subsector had the highest per business mean total cost of compliance with retail leases regulation at \$3300 per annum. Clothing Retailing recorded the second highest estimates for mean costs to business of all subsectors for the retail lease regulatory area, at \$2200 per annum.

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.

How this will happen

Amend the *Retail Leases Act 2003* to:

- clarify what is meant by entering into negotiations
- ensure that all the relevant information is provided before tenants need to renew their lease.

Benefits to small business

These reforms will increase small businesses' confidence in making sound business decisions and enable them to renew leases without 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. Small business landlords and tenants will have a better understanding of their rights and obligations under the Act. Internal DEDJTR analysis estimated annual cost savings of between \$1.2 million and \$1.5 million for landlords and tenants due to the reduced number of disputes. This calculation is based on the average costs of Specialist Retail Valuer reviews in 2015–16 of \$6700. The estimated saving will be shared equally among tenants and landlords as the cost of engaging a Specialist Retail Valuer is shared equally between both parties.

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. The Victorian Small Business Commissioner regularly hears disputes concerning the length of time taken to return a bond or bank guarantee.

Reform description

The reform introduces a time limit for returning bonds and bank guarantees to the tenant after the lease expires. This time 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

Stakeholders will be consulted to determine an appropriate time for return of deposit after the tenant performs obligations required under the lease. Once the appropriate time has been determined, amend the Act to include the agreed time limit.

New South Wales has recently introduced a time limit of two months for returning bank guarantees.²² This time limit commences once both parties have agreed that lease obligations have been met, meaning bank guarantees may still need to be serviced for several months after the lease ends. Further, by way of comparison to residential bonds, the two month time limit in NSW is much higher than the time limit for returning residential bonds in Victoria, where residential bonds must be returned 10 business days after a tenant vacates if there is no claim.

Feedback is sought on an appropriate time limit for returning retail security deposits.

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 in order to start up the 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.

4.3 DEVELOP AND DISTRIBUTE A FREE STANDARD RETAIL LEASE

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 leases are available from the Law Institute of Victoria (LIV) and the Real Estate Institute of Victoria (REIV), but they need to be purchased. Landlords may continue to re-use a standard lease for a number of years while unaware of, or unwilling to pay for, an up-to-date version. The standard leases cover commercial leases other than retail, including terms that do not apply for retail leases, which can further increase confusion.

Reform description

Create a standard retail lease that is available for free on the Office of the Victorian Small Business Commissioner (VSBC) website. The lease will not be mandated. The standard form retail lease will be written in plain English and supported by explanatory information from Small Business Victoria (SBV) and the VSBC to enhance understanding of legal rights

²² The NSW reform only relates to bank guarantees as cash bonds in NSW are regulated by a bond deposit scheme.

and obligation under the Act. This advice will be provided in multiple languages to assist multicultural small business owners and landlords to fully understand their rights and obligations.

The standard lease could be embedded within an online platform so that the standard lease can be customised automatically for different types of premises.

What do 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 very 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.

The development of a standard retail lease is a natural progression from what is already applied in the Act.

How this will happen

The Office of the Victorian Small Business Commissioner and Small Business Victoria will work with the LIV and the REIV to develop a standard lease and accompanying guidance documents. Guidance will be translated into languages with high numbers of non-English speakers and new business owners (from an analysis of Office of Multicultural Affairs and Citizenship data).

Section 84(1)(d) of the Act gives the function to the Small Business Commissioner to endorse a standard lease. The Commissioner could also develop a standard form lease.

Benefits to small business

Having a standard lease will allow retailers to understand the specific clauses and save time in interpreting the lease. Even if the standard lease is not used by all landlords, there is a trusted and free source of information comparison for new retailers.

A standard lease will help ensure accurate implementation of the Act and reduce the number of leases that include conditions that contradict the Act. It will also assist small landlords by reducing their leasing costs.