

**MINISTERIAL POWERS OF INTERVENTION IN PLANNING  
AND HERITAGE MATTERS**

**REASONS FOR DECISION TO USE POWER OF  
INTERVENTION**

***VICTORIA PLANNING PROVISIONS***

**AND ALL PLANNING SCHEMES IN VICTORIA**

**AMENDMENT VC136**

The *Planning and Environment Act 1987*, the *Heritage Act 1995* and the *Victorian Civil and Administrative Tribunal Act 1998* provide for the intervention of the Minister for Planning in planning and heritage processes.

In using my powers of intervention I have agreed to:

- Make publicly available written reasons for each decision; and
- Provide a report to Parliament at least every twelve months detailing the nature of each intervention.

**REQUEST FOR INTERVENTION**

1. No person other than the Minister has proposed or requested this intervention.

**WHAT POWER OF INTERVENTION IS BEING USED?**

2. I have decided to exercise my powers to exempt myself from all the requirements of sections 17, 18 and 19 of the *Planning and Environment Act 1987* (the Act) and the regulations in respect of Amendment VC136 to the Victoria Planning Provisions (VPP) and planning schemes.
3. Section 20(4) of the Act enables the Minister for Planning to exempt an amendment which the Minister prepares from any of the requirements of sections 17, 18 and 19 of the Act or the regulations.
4. In seeking to exercise this power, section 20(4) of the Act requires that the Minister must consider that compliance with any of those requirements is not warranted or that the interests of Victoria or any part of Victoria make such an exemption appropriate.

**BACKGROUND**

5. Victoria's planning system currently provides limited design guidance for apartment developments. This has resulted in poor apartment designs that provide inadequate long-term living environments.
6. Amendment VC136 introduces state-wide requirements for all apartment developments. The new requirements will improve the standard of apartment living and provide attractive and affordable living opportunities for a variety of household types in Victoria.
7. Amendment VC136 introduces requirements to mandate and improve:
  - The layout of apartment developments, including building setbacks, communal open space and landscaping.
  - The internal amenity of apartments, including daylight access, outlook, visual and acoustic privacy and storage.
  - The functionality of apartments, including minimum room size and accessibility requirements.
  - The environmental sustainability of apartment developments, including water and stormwater management, waste and recycling, energy efficiency, natural ventilation and noise attenuation in noise affected locations.

8. Amendment VC136 provides transitional arrangements for applications lodged before the introduction of this Amendment and existing applications are not required to comply with the new standards.

### **BENEFITS OF EXEMPTION**

9. The exemption will enable a prompt decision on the adoption, approval and gazettal of the Amendment and will allow for the Amendment to be introduced to the VPP and Victorian planning schemes immediately.
10. The exemption will also avoid duplication of process because the new apartment standards have been the subject of a significant and robust consultation process which commenced in May 2015.

### **EFFECTS OF EXEMPTION ON THIRD PARTIES**

11. The effect of exempting Amendment VC136 from the notice requirements set out in sections 17, 18 and 19 of the Act and the regulations is that third parties will not receive formal notice of the proposed Amendment, or be able to make submissions in relation to the Amendment and have them referred to a Panel.
12. Transitional provisions apply to applications lodged before the approval date of this Amendment, exempting them from requirements introduced by this Amendment.

### **ASSESSMENT AS TO WHETHER BENEFITS OF EXEMPTIONS OUTWEIGH EFFECTS ON THIRD PARTIES**

13. I consider that the benefits of exempting myself from sections 17, 18 and 19 of the Act and the regulations outweigh any effects of the exemption on third parties as extensive consultation has occurred on the new planning provisions included in Amendment VC136 and that further consultation would be unlikely to result in a different outcome. The consultation process involved:
  - Public consultation on *Better Apartments – A Discussion Paper* from May to October 2015. The Department of Environment, Land, Water and Planning (DELWP) sought feedback on 14 design issues relating to apartments and received 145 submissions from a broad range of stakeholders, including community, local government and industry bodies. Workshops and interviews were held from August to October 2015 to provide an opportunity to those who had made a written submission to identify solutions to internal amenity design issues.
  - An online community survey in May 2015 which received more than 1700 responses.
  - A Minister's Forum on 9 July 2015. The Forum was attended by 46 people including the Mayors and chief executive officers of metropolitan and regional councils and executive officers of relevant peak bodies. Feedback was invited on the issues of internal apartment design and amenity.
  - A Public Engagement report released in December 2015. The report summarised the feedback from the community, local government, industry and other stakeholders.
  - The establishment of a Project Reference Group in February 2016 consisting of peak consumer and industry bodies and the establishment of a Local Government Working Group in March 2016 consisting of 15 Victorian local councils. Draft design standards were developed by DELWP and the Office of the Victorian Government Architect and were tested with the two stakeholder groups from April to June 2016.
  - Public consultation on *Better Apartments Draft Design Standards*. Public submissions were invited on 16 draft design standards from August to September 2016. 253 submissions were received.
  - Information sessions in August and September 2016. DELWP held four information sessions with local government and industry stakeholders. The purpose of the

information sessions was to explain the draft design standards and to clarify any technical issues with stakeholders before they lodged their submissions. Approximately 120 people attended the sessions. All submissions were considered in the drafting of the final version of the provisions provided in Amendment VC136.

- Regular meetings with the Local Government Working Group, the Project Reference Group and the Office of the Victorian Government Architect in 2016. The meetings enabled attendees to consider refinements to the draft design standards and how they would be implemented through the planning and building systems.
  - Public release of final draft standards in December 2016.
  - Release of a second Public Engagement Report in January 2017. The Engagement Report summarised the feedback from the community, local government, industry and other stakeholders to the final draft standards, forming the basis of Amendment VC136.
14. Issues, comments and suggestions raised throughout the consultation process have been reasonably considered and accommodated into the standards. The views of affected parties are known through the significant consultation process which included consideration of submissions from the community as well as from targeted stakeholder reference groups. The community, local government and industry bodies have had extensive opportunity to have their views heard and addressed in the final standards which have been significantly informed by this extensive consultation. In addition, because the final standards have already been publicly released, all stakeholders have had the opportunity to review and understand them prior to their introduction through Amendment VC136.

#### **REASONS FOR INTERVENTION**

15. I provide the following reasons for my decision to exercise my power under section 20(4) of the Act.

16. I am satisfied that –

*Compliance with any of the requirements of section 17, 18 and 19 of the Act is not warranted because:*

- a) Extensive consultation has occurred on the new apartment standards proposed by Amendment VC136. Issues have been reasonably considered and the views of affected parties are known through the consultation process. I consider that further consultation would be unlikely to result in a different outcome.
- b) The public have had an opportunity to consider and make submissions on the final form of the new apartment standards which Amendment VC136 introduces into the Victoria Planning Provisions and all planning schemes.

#### **DECISION**

17. I have decided to exercise my power to exempt myself from the requirements of sections 17, 18 and 19 of the Act and the regulations in respect of Amendment VC136 to the Victoria Planning Provisions and all planning schemes.

#### **SIGNED BY THE MINISTER**

**HON RICHARD WYNNE MP**

Minister for Planning

Date: 2 April 2017