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REFORMING THE VICTORIA PLANNING PROVISIONS

The Planning Institute of Australia is the national body representing over 5,300 urban and regional planners across Australia and overseas. This submission has been prepared on behalf of our Victorian members by the Victorian Committee (PIA Victoria). We appreciate this opportunity to comment on the *Reforming the Victoria Planning Provisions Discussion Paper*.

1 CONTEXT

Smart Planning was announced as a three-stage project, with ‘transform’ being the final stage. While the broad purposes of the transform phase are publicly available, and consultation has been undertaken, PIA is not aware of the details of the project for which funding is being sought. Comment on the current discussion paper is therefore problematic, as it is unknown how the proposals relate to what is sought through the transform stage. Nonetheless, our comments are provided below with the disclaimer that it is subject to compatibility with the transform phase.

The process as a whole would benefit from a clearer strategy in terms of the issues that need to be addressed, the outcome sought, and the process for achieving it.

2 NEED TO PRIORITISE

Given the number of changes proposed by the Discussion Paper and the timeframes of the Smart Planning program, there is a clear need to prioritise which matters are progressed, and when.

We understand that there are likely to be three initial phases of implementation:

- Short term changes will be implemented towards the end of 2017 (Phase 1);
- Medium term changes will be implemented in mid-2018 (Phase 2); and
- Longer term changes will form part of a work program that will be set out in mid-2018.

A number of factors need to be considered in determining which matters can be addressed in which phase. In addition, it is evident that the following are likely to be taken into account – including perceived improvements in efficiency, ability to deliver in a timely manner and political appetite.

PIA therefore submits that prioritisation needs to consider:

- Likelihood of achieving better land use and development outcomes; and
- Complexity and potential for unintended consequences.

These are discussed further below.

2.1 Better Land Use and Development Outcomes

The stated purposes of the Smart Planning Program include: *“simplifying and improving the operation of the planning system, to make it the most efficient and responsive in the country”*.

While there is merit in this objective, its blind pursuit will not necessarily result in a planning system that produces the best land use and development outcomes, the most liveable State in the country, or even a net community benefit.

Initiatives that seek to simplify the planning system need to be considered in terms of whether they will also result in better land use and development outcomes. For example, there is a consistent theme within the Discussion Paper about standardising provision formats and schedules. The primary beneficiaries of standardisation are professionals within the industry working across multiple planning schemes; planners, developers, planning lawyers and the like. There is no doubt that standardisation makes our jobs easier, but it must be achieved in a way that ensures local areas are able to express policies that are particular to them; reflecting either an existing circumstance or a preferred outcome which contributes to its distinct character. This applies equally to the structure of the Planning Policy Framework (which needs to be broad and flexible enough to be able to ‘catch all’) and the standardisation of Zone and Overlay schedules (which is perhaps not so important when, for example, a local schedule diverts from the prescribed sub-headings listed in the Ministerial Direction).

It is understood that another benefit of standardised provisions is the ability for them to be ‘read’ by Planning Systems Information Management Systems (PSIMS). While this is an important benefit, it should not result in the ‘dumbing down’ of the planning system. Conversely, PSIMS should be able to interpret complex variables and identify how they relate to a particular property without the user trying to interpret multiple maps (for example; height, setback and use requirements based upon a site’s location and size).

The standardisation process should therefore focus on clearly identifying permit triggers and consistent use of terminology.

2.2 Complexity and Potential for Unintended Consequences

Some of the changes proposed through the Discussion Paper are relatively complex, and it is not considered that they can be appropriately dealt with in the timeframes set out in the current program.

This particularly relates to the suggestion of removing or modifying provisions that cross over with other legislation. Although vague, this nominally could relate to liquor licensing, gambling, and brothels.

Both State and Local government have invested heavily in some of these provisions in recent years to ensure better outcomes for their communities. While there is merit in exploring opportunities for reducing unnecessary duplication and complexity, any such changes need to be carefully explored, including through additional consultation and testing to ensure gaps are not left. Seeking to rush such changes through as part of the current Smart Planning program is likely to result in unintended consequences.

PIA advocates that such matters should be dealt with through a work-program, released alongside the Phase 2 changes in mid-2018, that sets out timeframes for consultation and implementation.

A similar lens could be applied to the proposed Planning Policy Framework changes. In this instance the options have been well considered through an Advisory Committee process. Nonetheless, the changes will be complex and resource intensive for local governments to implement without achieving a commensurate improvement in land use and development outcomes.

Without the context of knowing what has been requested through the 'Transform' phase and how the revised PPF fits within that framework, it is difficult to comment on whether this is the best use of strategic planning time and money at this point in time. It is likely that the resources could be more efficiently spent to achieve better land use and development outcomes.

3 Response to Proposals

In addition to responses provided within the Engage Victoria feedback template, we provide the following general comments in response to each of the proposals put forward.

Proposal 1: A simpler VPP structure with VicSmart assessment built in

There are no fundamental concerns with this proposal, although it is difficult to see how VicSmart can be integrated without further expanding the VPP. In this case, the Department should rely on the Technical Reference Group to determine if the proposal is appropriate to roll out within the Smart Planning timeframes or if more consultation and time is required.

Proposal 2: An integrated planning policy framework

While the integrated Planning Policy Framework is supported in principle, as noted above this is a very resource intensive project. It also needs to be well tested to ensure that it:

- Maximises benefits, particularly given the resource intensity of the proposal and mindful of the 'unknowns' of the transform phase; and
- Does not limit innovation.

In embarking on this model, clarification is required as to who is responsible for the 'Regional' section, and how this is to be reviewed and updated.

Proposal 3: Assessment pathways for simple proposals

It appears that the only options that are being considered for alternate assessment pathways are those that can essentially be 'objectively' assessed against standards. Other opportunities exist to:

- reduce third party notification and / or appeal rights on more application types; and
- allow 'VicSmart' type assessments, without the same restrictions on timeframes, of some applications that require merits based assessment.

Introducing provisions such as the mooted 'small café' code will create an unnecessarily complex architecture, that will essentially be another layer within the planning system that Smart Planning seeks to simplify. A better approach to support small business, industry and homeowners would be to 'switch off' existing unnecessary provisions. Within the existing framework, consideration should be given to switching off third party appeal provisions, notice provisions, and permit triggers for matters that are unnecessarily adding delays to the process in some contexts, such as:

- Liquor licensing for smaller venues within certain zones;
- Car parking dispensations for appropriate uses within certain zones; and
- Advertising signs within certain zones.

Guided by a competent Council planning officer, such changes could significantly reduce the complexity and delays of the planning system for relatively straight forward applications without the need to add new tools.

Rather than code-based assessment, reform should focus on:

- Enabling planning officers to make a merits based assessment without triggering notice and review provisions; and
- Specifies the level of delegation at which decisions are to be made.

In exploring these options, we note that:

- Application types which are likely to require more than a 10 day assessment timeframe should be considered; and
- The ability to de-couple 'notice' and 'review' should be explored; such that 'notification' can occur to enable community input and enable a planning officer to obtain local insights, without triggering third party appeal rights.

Proposal 4: Smarter Planning Scheme Drafting

PIA supports efforts to improve the consistency and clarity in planning scheme drafting. A dedicated business unit, however, should support rather than take over the drafting amendments.

Planning scheme amendments and associated proposed provisions are already reviewed multiple times; within Council, by State Planning Services within the Department and, generally, Planning Panels. State government should commit resources committed to building the capacity of planners within the existing review processes in preference to taking over planning scheme amendment drafting, although it would be useful if this service was available for Councils that request it.

Smart planning scheme drafting would be facilitated and supported by State Government providing 'stewardship' over the Victoria Planning Provisions. Currently, VCAT is relied upon to provide interpretation of provisions, including State provisions. This process causes significant delay and expense, and creates uncertainty, as alternate views are sometime put by the VCAT.

Currently, it is very difficult to engage with the Department on matters requiring clarification. Stewardship should extend to providing guidance on interpretation of provisions, processes and fees.

Proposal 5: Improve Specific Provisions

In general, the process of reviewing and improving individual provisions is strongly supported and long overdue. In terms of delivery and timing, we refer to our overarching comments regarding prioritisation taking into account better land use and development outcomes, and complexity and the potential for unintended consequences, resulting in a requirement for additional consultation. It is also submitted that weight should be given to the submissions on behalf of local Councils in regard to appropriately addressing these matters.

The proposed changes do not address the need for a Commercial Zone / potential vertical zoning that allows Responsible Authorities to manage the extent of 'Dwellings' above the ground floor. Current Zone controls, which allow 'Dwelling' as of right above the ground floor, significantly impact on the ability to create true mixed-use areas/ and to ensure offices, as a key centre for employment, are maintained within commercial centres.

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