

DRAFT

**Latrobe City Council Submission to
Reforming the Victoria Planning Provisions
(November 2017)**



LEADING
OUR COMMUNITY,
ADVANCING
OUR REGION

1.0 Executive Summary

Land use planning considerations within Latrobe City have long presented unique challenges due to the urbanised, industrialised history of the municipality centred upon a vast brown coal resource. In recent times, these challenges have been further complicated by economic restructuring occurring within energy and mining industries, and series of mine failures including land movement and fire impacting the local community.

Amidst this period of disruption, Council has sought to review and re-frame Latrobe City's natural and built assets to diversify the economy and secure a new land use and development future. The ability of Council to now shape its local planning scheme accordingly is a critical lever required to secure new investment and bolster community and economy resilience.

Consequently it remains the strong position of Latrobe City Council that Local Government remains the place in which community can establish its vision and plan for its desired future. It follows that Latrobe City Council expects that its legislative responsibilities to establish "*the strategic planning, land use and development objectives...*" as directed by the Planning and Environment Act 1987 are retained, if not strengthened.

Council does agree and appreciate the importance of an effective planning scheme in attracting business investment. This will not however be sustained by an over simplification of planning policy or a focus on time efficiency. Rather this requires locally relevant policy direction, which at times does contravene more immediate, site specific development interests or State preferences. Latrobe City Council therefore opposes proposals within the Discussion Paper which are considered to unacceptably remove community from the planning process or are considered to erode the capability of Local Government to shape and maintain a locally relevant planning scheme.

The Productivity Commission's recent report *Transitioning Regional Economies* April 2017 acknowledges that "*regional development has the best chance of success when it involves regional communities taking a leadership role in planning their own development needs and identifying strategies for how best to facilitate development.*"

Given the high importance of work presently being undertaken by Council in reforming the strategic direction for Latrobe City, and appreciating the far reaching implications outlined by the Discussion Paper; Council requests that further opportunities to participate in the proposed reforms are made available directly to Latrobe City Council prior to being finalised.

Latrobe City Council appreciates the opportunity to provide comments to 'Reforming the Victoria Planning Provisions Discussion Paper' and is generally supportive of many of the proposed changes. Some of the proposed changes however assume a homogenous or generic setting. It is believed that such an approach is likely lead to undesirable outcomes for local communities. Alternatives must therefore be considered, including those outlined by this submission.

2.0 Introduction

Latrobe City Council welcomes the opportunity to make this submission to the Reforming the Victoria Planning Provisions – Discussion Paper.

Latrobe City understands that Smart Planning Program has developed a discussion paper on Reforming the Victoria Planning Provisions (VPP) and is seeking feedback regarding the various Planning Scheme Reforms.

Latrobe City Council's response is provided in table format including the following sections:

Proposal 1 – A simpler VPP Structure with VicSmart assessment built in

Proposal 2 – An integrated planning policy framework

Proposal 3 – Assessment pathways for simple proposals

Proposal 4 – Smarter planning scheme drafting

Proposal 5 – Improve Specific Provisions

It is noted that due to the tight timeframes, this submission has been prepared by Council Officers and has not yet been formally endorsed by Council resolution.



3.0 Council response to proposed reforms

Latrobe City Council provides the following commentary and recommendations for consideration.

Proposal		Latrobe City Council response
A simpler VPP structure with VicSmart assessment built it		
1.1	Restructure and reform the particular provisions	<p>Not supported</p> <p>Particular Provisions would be better referenced within the Zone or Overlays, and linked to various use or development types. This would avoid confusion and ensure greater usability.</p> <p>Given the longer term intent is to digitise the planning scheme to support an increase in 'code assessment' of certain applications, Particular Provisions could be linked to the specific use or development types entered by the applicant (i.e. House – would align to Clause 54 provisions).</p> <p>The proposed introduction of specific sites clause has potential to grow, whilst enabling matters being considered in isolation. This is considered to highlight the necessity of Local Policy and schedules to identify locally specific site considerations. This also demonstrates that Zone tools are in some instances too generic, requiring local interpretation (i.e. 'One size fits all' Farming Zone).</p>
1.2	Integrate VicSmart into appropriate particular provisions and	<p>Partially supported</p> <p>Incorporating VicSmart provisions within the planning scheme is supported and expected to be an improvement to having a separate Clause, which presently contradict directions and requirements of the zone or overlays (in turn adding to user confusion).</p> <p>[REDACTED] simplify the VicSmart [REDACTED]. However, further consultation with Councils on the implementation of any changes is necessary. In particular, changes to VicSmart provisions in the past have and continue to cause issues with not enough consideration as to how these changes might affect particular uses, amenity and notice requirements.</p>
1.3	Consolidate all administrative provisions	<p>Supported</p> <p>Administrative change with no adverse consequence.</p>
An integrated planning policy framework		
2.1	Integrate state, regional and local policy	<p>Not supported</p> <p><u>The proposal does not support the principle of 'User Focused':</u> Latrobe City Council supports a broader sector view that State and Regional Policy should be removed from local planning schemes.</p> <p>Whilst it is acknowledged that State and Regional Policy is a critical consideration in shaping the content and requirements of Local Planning Schemes, for the most part, they include broad motherhood, contextual or generic statements of little relevance to end users.</p> <p>The inclusion of State Policy within schemes does little to assist in the usability and often lacks relevance to specific permit applications (i.e. permit applicants seeking to answer the question...<i>'So what do I have to do?'</i>).</p> <p>Further, much of State Policy is not applicable or relevant to a municipal district – (i.e. coast matters, ports, green wedge, Dandenong Ranges</p>

		<p>responsibilities to align its Council Plan, Municipal Public Health and Wellbeing Plan and Municipal Strategic Statement (The Public Health and Wellbeing Act 2008 directs that the MPHWP must be consistent with the Council Plan and MSS).</p> <ul style="list-style-type: none"> • The Discussion Paper does not discuss the legislative implications of proposed changes. It is the position of Latrobe City Council that amendments to governing legislation would first be required to enable the proposed changes to occur. • Local Policy directions, in particular the Municipal Strategic Statement, is often drawn upon to assist a range of matters beyond permit assessments, including advocacy initiatives, the attraction of grant or funding applications; whilst informing and representing a range of Strategies prepared on behalf of community (i.e. Open Space Strategies, Rural Land Use Strategies, Housing Strategies, Heritage Strategies, Tracks and Trails Strategies etc.). <p>This relationship is shown in the below diagram, which highlights the significance and broader function of the MSS.</p> 
2.2	Simplify the Municipal Strategic Statement	<p>Partially Supported</p> <p>Efforts by Latrobe City Council have routinely worked to achieve a simplified MSS. Council has also successfully avoided the introduction of Local Policies, seeing these matters addressed under Clause 21. Moving to a more concise MSS is supported, however its role may be further strengthened if the removal of broader State and Regional Policy Directions (commonly relevant to authorities and agencies only) are removed.</p> <p>We note however the proposed inclusions of a reformed MSS structure described by the Discussion Paper, omits content presently required by the Planning and Environment Act 1987), and which Council believes should be retained.</p> <p>The Planning and Environment Act requires that:</p> <ul style="list-style-type: none"> • <i>A municipal strategic statement must further the objectives of planning in Victoria to the extent that they are applicable in the municipal district.</i> (Much of the State Policy is often not applicable); and • <i>A municipal strategic statement must contain—</i> <ol style="list-style-type: none"> (a) <i>The strategic planning, land use and development</i>

		<p><i>objectives of the planning authority;</i></p> <p>(b) <i>The strategies for achieving the objectives;</i></p> <p>(c) <i>A general explanation of the relationship between those objectives and strategies and the controls on the use and development of land in the planning scheme; and</i></p> <p>(d) <i>Any other provision or matter which the Minister directs to be included in the municipal strategic statement.</i></p> <p>Referring to the above, it is evident that the MSS is required to be more than a 'contextual description' or outline of 'Council's aspiration'.</p> <p>Rather the MSS is to include clear objectives, strategies for achieving objectives linked to the specific controls for the use and development of land.</p> <p>Further, as previously discussed in Council's response to item 2.1, the MSS serves broader purposes beyond permit assessments including: advocacy initiatives, the attraction of grant or funding applications, informs and is required to align with a range of Strategies prepared on behalf of community, including the Council Plan.</p>
2.3	Expand policy themes	<p>Partially supported</p> <p>It is not considered necessary to include additional State wide policy themes in order to capture locally specific matters. This demonstrates the difficulties in a 'homogenous policy approach to land use planning suggested by the VPP reform.</p>
2.4	Create a clearer and simpler structure for policy making	<p>Supported</p> <p>This is supported.</p>
2.5	Set new rules and guidelines for writing policy	<p>Supported</p> <p>This is supported and should be a consideration by state and local planning agencies and authorities. The introduction of guidelines for the</p>
Assessment pathways for simple proposals		
		<p>Supported</p>
	VicSmart assessment pathway in appropriate particular provisions and overlay schedules	<p>The principle of embedding the VicSmart provisions into the rest of the planning scheme is supported. This should however be embedded in the zone and overlay controls not within separate Particular Provisions.</p> <p>It is also noted that often permit assessments require discretion. A code assessed system of State derived schemes is incapable of achieving this local level interpretation.</p>
	Introduce new code-based assessment provisions for simple proposals to support small business, industry and homeowners	<p>Supported in principle</p> <p>The proposed code based assessment model is not fully explained. It is however assumed that this would provide for an increase in complying developments to not require a planning permit, or be guaranteed a permit. This would aid and be well suited to an increase in the digital application of planning schemes, however should be limited to those uses with no or low off site amenity impacts.</p> <p>It is however noted that VicSmart proposals are not without issues. Particularly where the use changes over time, and becomes non-conforming; or where the use and development has potential for significant off-site disruption however no notice or third party appeal is provided (i.e. the inclusion of Motor Bike tracks in Rural Living Zones).</p> <p>Council asks that the opportunity to participate in the development of such changes be afforded.</p>
Smarter planning scheme drafting		

4.1	Create a new VPP user manual	Supported There is a need to prepare guidelines about the use of the suite of VPP controls and for a review of Planning Practice Notes. Practice Notes may well need to be reformatted to form part of the new manual.
4.2	Establish a business unit dedicated to VPP and planning scheme amendment drafting	Partially supported Assistance in drafting of amendments to ensure consistency and clarity is supported. It is suggested that using this service be undertaken voluntarily. Council holds the view that Local Government is the Planning Authority responsible for the development of policy within its planning scheme, as directed by the Planning and Environment Act. Land use planning is concerned with influencing trends and issues specific to the locality. This cannot and should not be centralised to a standard State driven narrative, an expected outcome of the proposed changes. As such, the proposal to mandatorily centralise authoring of amendments to planning schemes to a new State Government unit leaves Council concerned that the opportunity to form and introduce local policy as required by the Act would be significantly compromised. Concerns are also raised with the expected work load and capacity to process amendments in a timely fashion.
4.3	Create an online Victorian planning library	Supported An important initiative that would add value and transparency to planning process and decision making.
Improve specific provisions		
5.1	Improvements to specific provisions	Supported in principle The Discussion paper outlines a large number of changes, which if all were to be implemented, are likely to take an extensive period of time if undertaken with due diligence and engagement.
5.2	Update the	Supported [REDACTED] review is necessary and [REDACTED] ed.
5.3	Regularly review and monitor the VPP	Supported The ongoing review of the VPP is supported. Recent reviews undertaken and the focus of the Discussion Paper are considered to be overly focused on efficiencies, with effectiveness and effect of proposed changes on local community given lower consideration. The focus of proposed reforms is considered to be inconsistent with the balance of objectives described by Section 4 of Planning and Environment Act 1987.

ATTACHMENT 1:

Latrobe City Council response to proposed changes to specific provisions included within the Discussion Paper.

Proposal		Comment
1	Review zone schedules	Not supported Council is not supportive of changes which, in an effort for a 'once size fits all' planning scheme, will effectively prevent the ability of Council as the planning authority to establish a locally relevant planning scheme. The changes proposed here are considered to likely remove community, agency and other authorities from the planning process. There is little consideration given to of the overall, cumulative result of the changes proposed to the function and amenity of community; largely due to the over importance paid to efficiency (which differs from effectiveness).
2	Consider zone function and wording	In principle support The changes appear to make good sense. Further information and detail would however be required regarding such changes prior to being supported.
3	Change all residential zones	Not Supported The Residential Zones have undergone extensive review and change over recent years. Justification for further review prior to understanding the effect of recent changes is therefore recommended. Proposal (a) to remove ability to apply a permit requirement for [REDACTED] other schedule requirements can be complied with for small lot development. Further, Building code does not address good urban design principles, and consistently ignore schedule requirements. Proposal (b) is not supported. Traffic movement, proximity to existing uses and other safety considerations should be necessary considerations to which the planning assessment process provides.
4	Amendments to Mixed Use Zone	Supported in Principle Noted that Mixed Use Zone presently applies to locations in older settlement areas, which are predominantly residential in nature.
5	Amendments to Industrial 1 Zone	Supported in Principle
6	Amendments to Industrial 3 Zone	Proposals (a) & (c) are supported Proposal (b) might have the effect of 'out of center' investment in order to leverage lower cost land. This change will add to existing inter industry conflict resulting from different amenity expectations. Office should only be considered as a section 1 use where it is ancillary to an industrial use.
7	Amendments to Commercial 2 Zone	Supported in principle It is noted however that Commercial 2 Zones appear in out of centre locations (as a result of translation from the former Business Zones which enabled bulky goods developments). Proposal (a) is therefore not supported, where located outside a primary activity centre.
8	Amendments to Rural	Supported in principle

Proposal		Comment
	Zones	However, minimum setbacks outlined by the zone must be maintained. More site specific considerations would be captured by overlays applying to the land.
9	Amendment to Farming Zone	Supported in principle For primary production sales to be considered 'as of right' consideration of scale will be an important (i.e. floor area, number of employees, setbacks, car parking areas, road access and quality etc.). Such elements may be included as conditions to the section 1 use.
10	Review Urban Floodway Zone	Not supported Overlays should not prohibit a use rather require conditions of development or use. Urban Floodway Zone is deliberately and necessarily included as a zone to prohibit a range of uses in high flood risk locations.
11	Review Urban Growth Zone	Supported in principle It is noted however that the increased value of land resulting from the immediate translation to the intended zone, will result in significant uplift of land value and associated rate burden, well ahead of the development opportunity being enabled. This is of particular concern where development is staged or dependent on enabling infrastructure being provided to the land which may not be realized for several years.
12	Review all overlays	Further information is required The purpose of 'buffer' Overlays is an important inclusion, providing clear indication to current and future land purchasers, affording transparency. The application of a zone is such instances are not determined by the adjoining use.
13	Amendments to the environmental and landscape overlays	Further information is required
		by the overlay schedule, statement of significance and utilisation of an Incorporate Document to the scheme,
15	Review the Development Plan Overlay	Supported in principle
16	Review Neighborhood Character Overlay	Supported in principle
17	Review the land management overlays	Refer to item 10.
18	Review the Erosion Management Overlay	Supported in principle Proposal (a) is appropriate. Consider changing the structure so matters are scheduled in rather than out. This will avoid the need to list every exemption.
19	Review the Salinity Management Overlay	No comment.
20	Review Flood Overlay	Refer to item 10.
21	Review Land Subject to Inundation Overlay	Refer to item 10.
22	Review Special Building Overlay	Refer to item 10.
23	Review Airport Environs Overlay	Supported in principle Proposal (a) is necessary. Consideration of the ability of the AEO to also regulate design and development should be considered (i.e. types of building materials, sound proofing required).
24	Review City Link Project Overlay	No comment.

Proposal		Comment
25	Review Specific Sites and Exclusions	Supported in principle
26	Review Car parking	Supported in principle Consideration needs to be given to an alternative approach to car parking (including opportunity to provide no or limited car parking), particularly where smaller diverse housing types are provided in close proximity to services and public transport options.
27	Review earth and energy resources	Strongly supported The State Resources Overlay and Extractive Industry Interest Areas applying within Latrobe City are extremely onerous, outdated and apply to large areas of strategically important land located within the Farming Zone and Industrial Zone. In particular, the SRO significantly reduces development and investment opportunities of land in private ownership (including the prevention of interim uses). Extractive Industry Interest Areas are not formally represented in the planning scheme. Consideration should be given to implementing this.
28	Review of Uses with Adverse Amenity Potential	Supported in principle It is noted that 'reverse amenity buffers' and associated implications cannot be dealt with in the current provisions.
29	Review Service Stations	Supported in principle
30	Review Car Wash	Recommend removal of provision.
31	Review Motor Vehicle, Boot and Caravan Sales	Recommend removal of provision.
32	Review Telecommunications	Consider inclusion of a reference to a Code. This would remove the need for the provision.
		A review of planning assessment of a 'licensed premises' is required. The opportunity to make a positive contribution to venue design, the interface with the public realm, and its location with respect to sensitive uses and other licensed venues are important considerations for community and therefore Council. These matters should be largely retained within the Planning process. This proposal and point 34 are two important social considerations in our community and therefore the planning scheme. Simply removing them from the Planning Scheme will further reduce the planning schemes role as an advocacy document; and weaken its connections with other strategies of Council including the Council Plan and Municipal Public Health and Wellbeing Plan.
34	Gaming	Same comments as above.
35	Land adjacent to the Road Zone Category 1 or a Public Acquisition Overlay for a Category 1 Road	Supported in principle
36	Bicycle facilities	Supported in principle Consideration should be given to how this provision interrelates to the parking provision and the State policy relating to integrated transport planning.

Proposal		Comment
37	Post boxes and dry stone walls	Supported in principle
38	Residential development and subdivision provisions	Supported in principle Current structure adds confusion.
39	Metropolitan green wedge land	No comment.
40	General provisions	Not supported The information requirements should be included within the Zone or Overlay as appropriate – not included elsewhere within the planning schemes. An example of how this might be achieved is provided by the Industrial Zone.
41	Decision guidelines	Not supported See above comment at item 40.
42	Referral and notice provisions	Supported in principle Where matters are core responsibilities of agencies then they should be ‘determining’ authority. Particularly where clear legislative responsibility is in place or specialised expertise is required. Council should not absorb such responsibilities. Attention should be given to amending the VPP accordingly rather than individual agreements. Consideration of revised mandatory response times is also necessary
43	General terms	Supported in principle
44	Land use terms and definitions	Supported in principle This review should be undertaken periodically.
45	Land use terms – battery storage	Supported in principle
		Supported in principle
49	Availability of planning permits	Supported in principle May place undue resource expectation however on Local Government.
50	Section 173 agreements	Strongly supported