Reforming the Victoria Planning Provisions: a discussion paper

Master Builders Association of Victoria (Master Builders) welcomes the opportunity to provide comment on Reforming the Victoria Planning Provisions: A Discussion Paper (the Discussion Paper).

Master Builders has long been calling for planning system reform. The Victorian planning system is plagued by long and costly delays and inefficient practices. The 2017 report released by the Auditor General painted a damning picture of the Victorian planning system and its costly delays. In 2015-16, Yarra City Council on average took 117 days to make a planning decision – more than two months longer than the required 60 day timeframe. The report, titled Managing Victoria’s Planning System for Land Use and Development, refers to an estimate that on a project with a land cost of $5.2 million, holding costs could increase by $100,000 per month if the process drags on past the standard 12 month project timeframe. These figures are alarming, and steps must be taken to address the dysfunctional system.

Addressing the issues plaguing the Victorian planning system is more important than ever. As Australia’s fastest growing state, Victoria’s population grew by 2.4% over the year to March 2017 – or 149,000 people. In report commissioned Master Builders, Deloitte Access Economics projects strong population growth to continue over the next decade- on average 1.6 per annum, which is the equivalent to an extra 1.1 million people in Victoria until 2027.

According to Deloitte research, the pressure on the planning system will continue to grow. The additional people in Victoria will need somewhere to live, which will underpin considerable demand for new housing and infrastructure over the next decade. An average of 54,400 housing starts each year over the next decade is projected, which compares to an average of 54,770 over the past decade, and 41,460 over the decade prior. By 2051, the State Government has predicted that up to 2.2 million new homes will need to be constructed.

Master Builders considers that this presents significant opportunities for Victoria’s economy, community and the building and construction industry – but it also highlights the substantial housing required to accommodate growth.

That is why we welcome the some of the changes proposed in the Discussion Paper, in particular the regular review and monitoring of the Victorian Planning Provisions to remove unnecessary items and the extension of VicSmart, although we also consider that these changes don’t go far enough.

We present four major concerns we have with the proposed reform with six associated recommendations.

Firstly, we are very concerned with the proposed list of principles of the modern planning system. We strongly believe that the current major flaws in the system- efficiency and cost effectiveness - should be included so that they are prioritised for change and so that their progress is measured.
Secondly, the proposed changes to VicSmart are a step in the right direction but, we believe there is definitely scope for more change.

Thirdly, we consider that the proposed integrated planning policy framework does not go far enough, and should be reformed so that state policy has priority over local policy to deliver on strategic vision.

Finally, the proposed planning policy framework themes exclude one of the most pressing themes: housing. We consider the housing diversity and housing affordability must be included as policy themes.

Summary of recommendations

1. **What gets measured gets done: timeliness and cost efficiency missing principles of a modernised planning scheme**

1.1 Master Builders strongly recommends that timeliness and cost efficiency are included as two of the principles of the new planning scheme.

2. **VicSmart: a step in the right direction, but scope for more change**

2.1 Master Builders strongly supports the inclusion of secondary dwellings into VicSmart. We also support the other proposed small cafe/restaurant standards, temporary retail or cultural activity standards, ‘home occupation plus’ or ‘live/work unit’ standards.

2.2 Master Builders supports the implementation of a code assessed approach for sub-divisions and multi-unit residences to overcome some of the uncertainty, costs and delays being experienced.

3. **An integrated planning policy framework must give priority to state planning policy**

3.1 Master Builders recommends Reforming the Victoria Planning Provisions prioritise State Strategic policy over local policy, for example through establishing Development Assessment hubs or establishing a Centralised Planning Authority.

4. **Delivery of housing needs to be a greater thematic focus of the planning scheme**

4.1 Master Builders recommends that Housing Diversity is included as an PPF theme.

4.2 Master Builders seeks clarification on the operation of the PPF themes and recommends that they are not misused by Council as a basis to object to planning applications. We also recommend that PPF themes do not double up with existing adequate regulatory tools such as the Australian Building Code and the Victorian Environment Act.

4.3 Master Builders recommends that two proposed themes Climate Change and Renewable Energy are combined to one theme: Climate Change and Renewable Energy to prevent superfluous and overcomplicated schedules.
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1. What gets measured gets done: timeliness and cost efficiency missing principles of a modernised planning scheme

A fundamental part of reforming the Victoria Planning Provisions is redefining and modernising the planning scheme principles. As stated in the Discussion Paper, these principles are intended to ‘articulate a set of ideals for a modern planning scheme against which the benefits and implications of a proposed change can be measured’.

The proposed provisions include

- digital first,
- user focused,
- consistent,
- proportional,
- land use focused and
- policy and outcome focused.

We cannot understand why timeliness and cost efficiency have been excluded from this list. We strongly believe they should be included.

Timeliness

Planning delays are the biggest issue for users of the planning system, from builders to planners and consumers. Long delays impose additional costs on the building and planning industry, which ultimately add to the cost of building and housing affordability.

For example, as reported in The Age on 10 November 2017, ‘Building permits: The fastest and slowest Victorian councils for processing’:

‘Manningham council, in Melbourne’s north-east, is the slowest council, according to a statewide analysis of the median number of days each council took to decide on a planning application in 2015-16. In Manningham, the median was 166 days — more than double the state average of 69 days.

Dandenong and Hume councils were not far behind with median response rates of 135 days for the former and 127 days for the latter. Overall, there were 10 councils in metropolitan Melbourne with a median response rate above 100 days.’

These statistics are likely to be far worse for the most recent financial year, but the government has been reluctant to publically release the information. In fact, the last two Planning Annual Reports have not been publicly released by the Victorian Department of Transport, Planning and Local Infrastructure.
Nevertheless, considering data from the publicly available *Planning Permit Activity in Victoria Annual Report 2014/15* confirms that only 64 per cent of the total 57,297 planning permit applications received were decided within the 60 day statutory time frame, three percentage points worse than the previous year.

Another good indicator of how sluggish the Victorian planning system is, is the number of applications that end up being disputed in VCAT. At present, the scope of objections people can lodge in relation to planning permits is very broad, and when objections proceed to VCAT significant costs and delays can be incurred. In fact, the delays to planning and delivery of strategic plans are particularly problematic for the Victorian economy and building industry.

The 2016-17 VCAT Annual Report revealed that $10.25 billion worth of work was tied up in disputes at VCAT, where on average it took more than six and a half months to make a decision - an increase of 46% compared to the previous year. Almost half of these cases were for claims less than $1 million, which suggests that the planning system is not dealing efficiently with small domestic applications and that there is potentially too much scope for objection - which is why so many are appealed in VCAT.

Even beyond the views of our members, other building industry representatives and various government and auditor general reports- the information available on the Know Your Council website provides clear evidence that planning delays are a huge problem. In addition, the Department’s own description of the policy intent of the Smart Planning program emphasises the issue of cost and delays.

In determining the ‘need for reform’, the Smart Planning website states:

> Planning regulation has become complex, inaccessible and inefficient.

> Additionally, processes for planning-related tasks are outdated, and not supported by modern technology. Many tasks are unnecessarily difficult and time-consuming, affecting all users of the system.

It is therefore unclear why efficiency would not be included as a founding principle or a reformed system.

**Cost efficiency**

These delays have real life costs to consumers, and it is essential that the planning system is cognisant of this. As highlighted in the Auditor General’s Report *Managing Victoria’s Planning System for Land Use and Development*, the holding costs for a project with a land cost of $5.2 million is estimated to increase by $100,000 per month if the process drags on past the standard 12 month project timeframe.

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1. VCAT 2016-17 Annual Report, page 55
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The additional time and cost associated with the build process is hitting consumers hard. For example, Lucy Sinclair and her young family have been paying rent in temporary accommodation as well as a mortgage on their home while the Council spends months approving their simple application for a renovation.

As reported in *The Age* on 10 November 2017, *Building permits: The fastest and slowest Victorian councils for processing:*

Lucy and James Sinclair first submitted an application to renovate their small Northcote house in July 2015, hoping to add some space before they had children. It was approved four months later.

They then scaled back their plans to save money, submitting an amended application to extend the rear of their semi-detached house — a renovation they thought was a "simple, low-cost build".

After paying a second $1500 application fee to Darebin council, their amended application took another three months to be approved. During this time, they moved into a rental after Ms Sinclair gave birth to twins.

"We've been paying the mortgage, and the cost of renovations, and rent as well so it's pretty tough," said Ms Sinclair.

A VCEC 2010 inquiry found that the total costs to business of complying with land-use planning and building regulations are between $500 million and $875 million per year, including around $180 million each year due to unexpected delays in planning decisions.³

Our builders have also told us that the cost of the planning application system for some families is so high that it can become prohibitive and prevent houses being built or renovations being undertaken, and this discussion is occurring at a time when Victoria is experiencing a well known housing affordability crisis. The latest ABS house price data shows prices in Melbourne grew by 13.4% over

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the year to March 2017\(^4\) and there is no indication of a slow down. In addition to this, house prices and rents have grown faster than average incomes since 2006, causing living expenses to rise significantly, particularly for low income earners. Melbourne house prices have outpaced incomes 1.4 times in the past decade.

**Chart 1: House Prices, Rents and Wages, Victoria**

![House prices, rents and wages chart](chart.png)

Given the close relationship between housing costs and lengthy planning delays, it is beyond our comprehension that a new planning scheme would omit cost efficiency as a principle.

Given the overwhelming evidence that planning delays and costs are major problems in the current Victorian planning system, it is absolutely critical that timeliness and cost efficiency are prioritised as principles of the new planning system. Doing this will assign these two issues the weight they deserve, and support the new planning scheme to address them. Determining cost efficiency and timeliness as principles will help in tracking their progress in the new planning scheme.

Indeed, what gets measured gets done.

**Recommendation: Master Builders strongly recommends that timeliness and cost efficiency are included as two of the principles of the new planning scheme.**

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\(^4\) Master Builders Victorian Building and Construction Outlook September 2017
2. VicSmart: A step in the right direction, but scope for more change

Master Builders welcomes the proposed reforms that strengthen the relevance and usability of VicSmart, although we consider it could be extended to include other planning items.

One of the most efficient ways to ensure the delivery of Victoria’s housing needs and remove red tape in the planning system, reduce permit waiting times and reduce third party objections is by creating responsible codified processes. If developments meet the standards of the planning codes guidelines, local governments cannot refuse the developments; and people will be notified for their information, rather than for allowing submissions or objections.

Third party appeal rights can have a disincentive effect towards higher-density development. As demonstrated by the Grattan Institute:

“Third party appeal rights also disproportionately affect multi-unit developments. Recent research shows than in 2007-8, 42% of all applications for multi-dwelling developments in Melbourne are referred to VCAT, compared to 23% of single dwelling applications.....constituting a significant disincentive to the development of semi-detached housing, and apartments up to 3 storeys.”

This is why we support the proposal outlined in the Discussion Paper to introduce new code-based assessment provisions for simple planning proposals, in particular secondary dwelling (‘granny flat’) standards and small lot standards.

Secondary dwellings are an affordable option for single person households. Because the cost of land is removed, it is likely that smaller secondary dwellings could be built for about $80,000-$150,000. Given the structures will be built on a slab, it is expected they will have good thermal performance.

Changing the rules so that it is faster, cheaper and easier to construct secondary dwellings are a sensible solution to housing problems faced by young people, empty nesters and elderly people. This solution supports small, low impact dwellings that are in keeping with the local development, and because it does not require the subdivision of land, titles are preserved with lot boundaries and services unchanged.

Recommendations: Master Builders strongly supports the inclusion of secondary dwellings into VicSmart.

We also support the other proposed small cafe/ restaurant standards, temporary retail or cultural activity standards, ‘home occupation plus’ or ‘live/ work unit’ standards.

Other items that are suitable for code-based assessment

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5 Jane-Frances Kelly, ‘The housing we’d choose’, Grattan Institute, June 2011, page 32
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While we support the proposed items to be included in Vic Smart, we consider that it could be extended to encourage more efficient development around principal activity centres and major public transport networks. Depending on the zone, it could include dual occupancy, low-rise townhouses, apartments and other forms of medium - high density housing.

**Semi-detached development**

Justin Madden, former Labor Minister for Planning, highlights that there is an opportunity in the suburbs to create higher density living on existing blocks of land through producing semi-detached dwellings without the need to obtain a planning permit. He comments that:

> “The current planning permit process adds a significant cost to this style of low-rise/higher-density housing. It can often take as long as 12 months, with no certainty when seeking planning permission to build what some in the industry refer to as "side by sides".”

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By allowing semi-detached dwelling approvals to be streamlined, a larger pool of land in the middle suburbs could potentially be opened up which would create opportunities to build more affordable dwellings. As Justin Madden says:

> “Small apartments in four- or five-storey developments are built by the commercial building sector, but new houses on Greenfield locations are built by small-scale residential builders, often referred to as the "cottage" building industry. "Cottage" industry building is a less expensive way to build for a variety of reasons, mainly the use of less complex construction techniques. Apartments, though, sell for the equivalent cost of a larger home in the growth area outer suburbs, because of the technical complexity of commercial building costs. This means that for many entering the housing market or those downsizing, there is a limited choice of either a small apartment or a larger detached dwelling.”

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Master Builders supports the implementation of an ‘as-of-right’ code assessed approach for subdivisions and multi-unit residences to overcome some of the uncertainty, costs and delays being experienced.

**Recommendation:** Master Builders supports the implementation of a code assessed approach for subdivisions and multi-unit residences to overcome some of the uncertainty, costs and delays being experienced.

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6 Justin Madden, ‘Rethinking Melbourne’s ‘missing middle’’, *Herald Sun*, 23 November 2015

7 Justin Madden, ‘Rethinking Melbourne’s ‘missing middle’’, *Herald Sun*, 23 November 2015
3. An integrated planning policy framework must give priority to state planning policy

The Discussion Paper outlines a proposal to integrate state, regional and local planning policy. The proposal seeks to merge the SPPF and LPPF into a single policy source called the Planning Policy Framework (PPF), with the three levels of policy grouped by theme. The Discussion Paper also explains that 'all regional and local planning policy would need to be derived from state planning policy', which we support, and that:

“State policies would appear in every planning scheme, with the metropolitan and regional layers of planning policy for each of the nine state divisions (sourced from the metropolitan strategy and the eight regional growth plans) appearing only in the planning schemes to which they apply.

...To emphasise their equivalent importance, planning and responsible authorities would be required to uniformly take account of and give effect to all three tiers of policy.”

While this is a step in the right direction, Master Builders considers that it does not go far enough in resolving a fundamental governance issue in the Victorian planning system – the disconnect between the state government’s strategic vision for growth and the decisions implemented by some local Councils that evidently restrict growth.

State strategic vision vs Council planning decisions: a fundamental disconnect

If Victoria requires the construction of around 2.2 million homes by 2051, there has to be an increase in supply, and it makes good sense to build these dwellings in areas with existing infrastructure. Major strategic plans will need to be made – and followed through – to ensure that growing communities, both new and existing, have access to the appropriate living standards, services and amenities.

There is clear evidence that while the State may make plans to accommodate the growth, key inner suburban local councils have proven that they will tend to operate to lock down their land supply – and oppose densification. For example, when the new zoning implementation occurred in 2013, three new zones were introduced. The new zones include Neighbourhood Growth Zone (NRZ), which is the most restrictive zone intended to restrict growth; the General Residential Zone (GRZ) that is intended to allow moderate housing growth and diversity; and the Residential Growth Zone (RGZ), that is intended to foster high density development in and around activity centres, shopping strips and major transport corridors.

Councils were given 12 months from July 2013 to amend their planning schemes to implement the new residential zones. This meant that as long as a council could justify their proposed application of zones - be it through existing housing strategies or a combination of character, heritage and activity centre policy - they ultimately were able to decide their own zoning.
This process lent itself to ad hoc application of zoning across councils. For example, in Monash City Council, nearly all (96 per cent) of residential land is zoned GRZ, a contrast to Manningham, a neighbouring municipality, where just under 50 per cent is GRZ. Considering the most restrictive zone, the NRZ, some councils, such as Knox do not apply it at all, but Boroondara applies it to 75.7 per cent of residential land. This signifies that housing growth will be occurring much more in places like Monash than Boroondara, despite the fact that Boroondara is:

“...served by the Alamein, Belgrave and Lilydale railway line, numerous tram and bus routes as well as access to CityLink and the Monash Freeway...key rail strips and parklands...as a centre for education, with many public and private schools located in the municipality. Swinburne and the University of Melbourne also have campuses in Hawthorn.”

This problem has not gone unnoticed by Infrastructure Victoria, the independent body set up by the government to advise on infrastructure needs for a rapidly growing population. Speaking at the Council on Tall Buildings and Urban Habitat international conference in Melbourne in November this year, Infrastructure Victoria executive director Jonathan Spear said it was hard for local councils to make a case for more housing development.

“Because no mayor and councillor is going to find it easy to say, ‘Yes please, I want to have more people living here,’” he said.

“So we think this is something where the Victorian government needs to take at least a lead in giving some sense of where should the priorities be, what changes should be made to the planning system, where do we need to be allocating and allowing for some additional population where infrastructure exists.”

- Jonathan Spear, Executive Director, Infrastructure Victoria

Reforming the planning system is a perfect – and rare – opportunity to revisit the relationship between state and local policy. While we support the suggestion that State policy will have more weight, we believe this does not go far enough.

A centralised planning scheme

An option that could be considered to reform and create real change as part the Reforming Victoria Panning Provisions process is a centralised planning scheme.

In the 2016 Draft Options proposed by Infrastructure Victoria, the possibility of a centralised planning scheme was presented. Under the proposal, key planning decision making and infrastructure coordination is transferred from local councils to a centralised authority, such as the Victorian Planning Authority (VPA), this option directly addresses the major issue in the current planning system: local council decision making. Master Builders’ support for this option is echoed in

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8 Overarching Report, Residential Zones State of Play, 29 January 2016
9 ‘State government urged to push for high density housing in Melbourne suburbs’ John Masanauskas, The Herald Sun 5 November 2017
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*Master Builders Priorities 2016-17, Master Builders 2016 Planning for Growth and Master Builders’ submission to the review of Residential Zones.*

A centralised planning scheme will provide Victoria with a clear scheme that is capable of delivering on state planning policy objectives and ensuring an efficient and effective building and construction industry.

Master Builders endorses Infrastructure Victoria’s comments that: “this option is expected to help reduce the mismatch between supply and demand for infrastructure and services, as well as better match the location of population growth with the location of existing services – Draft Options Book, page 101.

A centralised planning scheme would help reduce costs and inefficiencies in our planning system.

As stated in the Draft Options Book, “the main economic benefit of a centralised planning scheme would be derived from improved efficiencies associated with infrastructure planning and procurement compared to current practice”.

Transferring the decision making from Councils to a central authority such as the proposed Victorian Planning Authority is likely to speed up the decision making process and reduce the costs and delays currently experienced.

A centralised planning scheme will increase the consistency of the application of zones across Victoria, which will assist the State Government to implement its strategic planning vision.

Transferring major decision making power from local Councils to a centralised planning scheme, as suggested in *All Things Considered*, would resolve this disconnect between the state government’s strategic plans and their implementation. Reforming Victoria Planning Provisions is the ideal opportunity to make this kind of change.

**Development Assessment Hubs**

Master Builders also considers that reforming the Victoria Planning Provisions could also consider the introduction of Development Assessment Hubs. Development Assessment Hubs could that local council decisions are made that will deliver on planning strategy and within planning assessment timeframes.

In South Australia a system of local Council Development Assessment Panels (CDAP) have been established, making it compulsory for Councils to delegate all development assessment decisions to a delegated officer, a local CDAP or a regional DAP. The composition of CDAPs include a presiding member who is not from Council and has planning experience, half of the members being independent/specialists and up to half the remaining staff can be from Council. Recently, Property Council Australia has recommended that elected officials are removed from the CDAPs.

This Hub would make the decision making process much more efficient.
Accordingly, the structure and make-up of development assessment hubs would need to be considered in light of experiences in other jurisdictions.

**Recommendation:** Master Builders recommends Reforming the Victoria Planning Provisions prioritise State Strategic policy over local policy, for example through establishing Development Assessment hubs or establishing a Centralised Planning Authority.
4. Delivery of housing needs to be a greater thematic focus of the planning scheme

As established in this paper, building the additional 2.2 million dwellings required to house Victoria’s future population is a priority, and the planning system should be designed to support this growth.

In the Discussion Paper, a range of policy themes are explored, to

‘... ensure the PPF has the capacity to deliver policy intentions at state, regional and local levels, the existing SPPF thematic structure is to be updated.

...In the PPF, the state-wide policy context is expressed through the policy themes. A planning scheme user would learn about what is important by observing the policy matters addressed in the PPF.’

The proposed list of themes includes place-based policy, advertising signs, design for regional and rural areas, lakes and wetlands, amenity (including non-residential uses in residential zones and other interface issues), climate change, non-renewable energy support and diversification of employment.

Clarifying the use of themes

We seek clarification on how these themes and planning scheme schedule templates will be used, and what impact they will have on day to day planning applications. In particular, we are concerned that Councils may misuse these themes as a basis to object to applications.

We would also like to stress the importance of preventing themes doubling up on rules and guidelines. There are existing regulatory tools, such as the Building Code of Australia and the Victorian Environment Act, that adequately address and provide clear guidance for a range of issues that regulate the built environment. To prevent confusion and unnecessary red tape, themes in planning schemes must not double up on these issues that are already addressed elsewhere in legislation and regulations.

**Master Builders seeks clarification on the operation of the PPF themes and recommends that they are not able to be misused by Council as a basis to object to planning applications. We also recommend that PPF themes do not double up with existing adequate regulatory tools such as the Australian Building Code and the Victorian Environment Act.**

Housing diversification: missing policy theme

Master Builders is very concerned by the absence of housing diversity as a theme – especially given that appropriate housing development is an important outcome of the planning system.

In the same way that diversification of employment is an important consideration of the planning system, housing diversification is vital. Housing is an important part of the state’s planning agenda,
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and should be prioritised as a policy theme accordingly. Including it will help promote an appropriate range of housing in particular areas, such as medium to high density areas in established areas.

**Recommendation: Master Builders recommends that Housing Diversity is included as a PPF theme.**

Given that this reform is seeking to simplify our planning system, we recommend consolidating relevant themes so there aren’t superfluous themes and paperwork. This is relevant to climate change and non-renewable energy supply, which we consider could be consolidated into one themes of ‘climate change and renewable energy’.

**Recommendation: Master Builders recommends that two proposed themes Climate Change and Renewable Energy are combined to one theme: Climate Change and Renewable Energy to prevent superfluous and overcomplicated schedules.**