

Questions posed by Reforming the Victoria Planning Provisions

Baw Baw Shire Council response

1 – A simpler VPP structure with VicSmart assessment built in

What other changes to the VPP structure do you think should be considered?

A move of Clause 62 (Uses, buildings, works, subdivisions and demolition not requiring a permit) from ‘operational rules’ to ‘decision rules’ (possibly specific use & development provisions?) should be considered.

2 – An integrated planning policy framework

Are there any themes that should be added to the proposed PPF thematic framework – shown in Appendix 1 – to ensure that it covers all required policies?

Development of rural areas, especially housing, continues to be one of the most challenging issues facing regional Councils. Consideration should be given to providing a more extensive ‘rural environment’ framework.

For example, separating ‘rural residential development’ (16.01-5) into two distinct provisions. These could possibly be ‘rural living areas’ and ‘other rural areas’. By separating ‘rural residential development’, it would provide more opportunities to better align policies to zone purpose particularly given the differing ‘use’ focus of many rural zones.

There is also a lack of ‘decision rules’ for how agricultural land is protected? More ‘policy rules’ are needed to provide guidance on how tourism, industry and other discretionary uses are considered in a rural area.

What else could be done to make planning policy easier to apply and understand?

Greater use of prescriptive requirements / standards, which can be considered as ‘deemed to comply’ for achieving a performance based objective.

Expansion of ‘codified’ principles to relevant aspects of more complicated proposals.

What will be needed to support transition to a new PPF format?

- Transitional arrangements.

The proposed changes are significant and will have dramatic impact on the structure of applications and assessment reports. For example, the BMO updates where no transitional arrangements occurred, resulted in some applications that were near the completion of assessment, to provide additional information. This adversely impacted on decision timeframes and increased angst of proponents.

- Direction on how to deal with previous issued permits where the action no longer requires a permit.

The rationalization of 'permit triggers' is likely to result in a number of previously issued permits no longer being necessary. Will they be null and void or still have effect? This may be a particularly sensitive issue in cases where notification had previously occurred and the community expectations are consistent with conditional requirements of permits that may no longer have effect.

- Training for statutory planners
Will be necessary to ensure new provisions are known and applied appropriately.

- Training for development community
Will be necessary to ease the transition to new provisions and facilitate required application standards.

- Financial resources - statutory
The extent of the changes and the ability to meet with statutory timeframes will be severely compromised without the provision of appropriate resources to update systems. Items that will require updating include:

- Assessment templates
- Applicant information sheets (electronic and hard copy)

- Financial resources – strategic
The proposed changes will impact on the structure of planning scheme amendments. Any amendment that has been initiated but not obtained gazettal will need to be revised to meet new requirements. This should be undertaken by DELWP to ensure consistency and minimize impacts on Council.

- Temporary 'veto' on planning scheme amendments
No planning scheme amendments (at least not amendments impacted by structural changes eg. Local policies, impacted overlays, etc) should be permitted in a specified lead up period to minimize administrative consequences and inefficient use of resources.

3 – Assessment pathways for simple proposals

What other matters do you think are suitable for code-based assessment?

- Animal industries in farming zone
- Development near waterways (with prerequisite that 'works within waterway permit' has been obtained from relevant

	<p>authority)</p> <ul style="list-style-type: none"> • Industries without adverse amenity impacts in industrial zones • Land subject to inundation • Satellite Dishes • Wind energy facilities • Racing dog keeping and training • All items listed in Clause 62.02-2 Buildings and works not requiring a permit unless specifically required by the planning scheme <p>In addition, the following should be considered for removal from the planning system due to other regulatory requirements and/or legislation:</p> <ul style="list-style-type: none"> • Timber production • Telecommunication facilities • Brothels
4 – Smarter planning scheme drafting	
<p>What are the key matters you think a VPP user manual should include?</p>	<ul style="list-style-type: none"> • Purpose / intent statement • Examples • Illustrations
<p>What planning documents or information do you think should be included in a Victorian planning library?</p>	<ul style="list-style-type: none"> • Incorporated documents • Reference documents • Background documents • Endorsed / adopted plans • Relevant acts • Relevant regulations • Relevant case law • Memorandums of understanding / other instruments relating to referral authority model conditions • Title plans, covenants, S173 agreements, etc. that are required to be taken into consideration (Note: consideration should be given to amending Section 60 of the Planning and Environment Act to remove the requirement of Councils to consider registered restrictions. These can often be contrary or irrelevant to planning principles and/or objectives. Simplified processes should also be introduced to remove section 173 agreements when supported by Council and/or other Authorities)
<p>Are there other ways the drafting and consistency of planning scheme provisions could be improved?</p>	<p>Review of 'decision guidelines'. There are opportunities for decision guidelines to be rationalized. Clearer direction could be given by being more specific and removing vague or open ended statements.</p>

5 – Appendix 2: Possible reforms of specific provisions

ID No.4	Consider the placement of additional ‘retail premises’ sub uses into Section 1 (e.g. Postal Agency)
ID No.5	<p>‘Motor Repairs’ is already a Section 1 use by virtue of being a sub use of ‘Industry’ as long as the associated conditions are met (i.e. not a Clause 52.10 or adverse amenity). The condition relating to adverse amenity should be reviewed with an intent of providing more prescriptive guidance.</p> <p>Consider the placement of additional uses into Section 1 (e.g. Trade Supplies, Take Away Food Premises, Adult Book Shop)</p>
ID No.6	Consider the placement of additional uses into Section 1 (e.g. Service Industry as opposed to just Motor Vehicle Repairs, Manufacturing Sales)
ID No.11	<p>The proposal to rezone PSP areas on gazettal may create some issues particularly if applied retrospectively. For example, Baw Baw Shire Council has two approved PSP’s being Drouin and Warragul. The applied zonings in themselves would not achieve outcomes envisaged by the PSP.</p> <p>Applied zones would enable a significantly higher dwelling yield if not burdened by additional controls not considered by the PSP such as a Neighbourhood Character Overlay. This could be alleviated by the PSP becoming an incorporated document but would still be difficult to have controls visible and clear to all affected parties.</p> <p>Things are further complicated by the associated DCP’s that have been adopted which provide for community infrastructure based on population projections that were informed by dwelling yields.</p> <p>Furthermore, in early development stages, greater zone flexibility may be needed. Council has used its discretion and considered development as ‘generally in accordance’ with regard to relocation of a proposed school. In some instances, further information may be needed (e.g. survey work) to ensure zone boundaries are appropriate particularly in relation to parks (PPRZ) and other service and/or community infrastructure (such as RDZ1 which</p>

	<p>may need to incorporate a PAO).</p> <p>The intent is clear but may be better implemented through tightening of the PSP framework. Alternatively, greater direction on how to better utilize VPP's to undertake masterplan work would be beneficial.</p>
ID No.26	In reviewing the car parking rates, consideration should be given to aligning the uses to be consistent with those specified in the 'land use terms'.
ID No.28	Council supports the 'reverse amenity' approach. Permits issued in these circumstances should be required to have a S173 agreement attached to the land acknowledging the 'existing use'. In addition, the agreement should include oblige the landowner to implement whatever measures necessary to ensure that the sensitive use is not adversely impacted by the existing use (thou shall not complain)
ID No.32	Consider removal of Telecommunications Facilities from the Planning Permit process due to alternative legislative requirements.
ID No.36	Regard should be had to the availability of infrastructure and cost/benefit in regional areas. Differing provisions, similar to those provided for in 52.06 where a PO applies, should be considered.
ID No.50	Any review should include the process of amending or removal of S173 agreements.