



8.2 **CITY OF PORT PHILLIP SUBMISSION TO SMART PLANNING: REFORMING THE VICTORIA PLANNING PROVISIONS**

WARD: **WHOLE OF MUNICIPALITY**

GENERAL MANAGER: **CLAIRE FERRES MILES, PLACE STRATEGY & DEVELOPMENT**

PREPARED BY: **KELLY WHITE, SENIOR STRATEGIC PLANNER**

TRIM FILE NO: **66/01/215**

ATTACHMENTS: **1. Draft officer submission to Reforming the VPPs for Council endorsement**

PURPOSE

- To consider endorsing a submission to the Department of Environment, Land, Water and Planning in response to the Discussion Paper: *Reforming the Victoria Planning Provisions* (Smart Planning initiative).

I. RECOMMENDATION

That Council:

- 1.1 Endorses the submission to the Department of Environment, Land, Water and Planning (Attachment 1) on the Discussion Paper: *Reforming the Victoria Planning Provisions*.
- 1.2 Advises the Department of Environment, Land, Water and Planning that the interim submission provided by Council officers on 24 November 2017 has now been endorsed by Council.

2. BACKGROUND

- 2.1 The Victoria Planning Provisions (VPP) are a set of standard provisions for planning schemes that are created by the Minister for Planning under the *Planning and Environment Act 1987* (the Act). These provisions form a template for all planning schemes.
- 2.2 The VPP were introduced as part of the introduction of New Format Planning Schemes in 1999 and have been incrementally updated and altered since that time. Their purpose was to apply greater consistency in the form and layout of planning schemes across Victoria.
- 2.3 The State Government is currently seeking feedback on a Discussion Paper called '*Reforming the Victoria Planning Provisions*'.
- 2.4 The Discussion Paper proposes six principles of a modern planning system:
 1. Digital first
 2. User focused
 3. Proportional (concept that regulatory burden should be proportionate to risk)



4. Land use focused
5. Policy and outcome focused
6. Consistent

2.5 To realign the VPP with these principles, the State Government is proposing to make specific changes. The changes aim to simplify and realign the structure of the VPP with contemporary expectations while not fundamentally changing the basic operation of planning schemes.

2.6 Reforms within the Discussion Paper that would have the greatest implications for Port Phillip include:

- Creating an integrated Planning Policy Framework (PPF) by integrating the State Planning Policy Framework (SPPF) and Local Planning Policy Framework (LPPF).
- Strengthening the weight of local policy so that planning and responsible authorities must be 'give effect to' local policy alongside State policy.
- Streamlining the structure of Municipal Strategic Statements.
- Setting new rules and guidelines for writing policy.
- Creating a business unit dedicated to VPP and planning scheme amendment drafting within the Department of Environment, Land, Water and Planning.
- Introducing new code-based assessment provisions for 'simple' proposals such as small lots (less than 500sqm), cafés / small restaurants and secondary dwellings (i.e. 'granny flats').
- Increasing the number of permit exemptions across all zones and overlays.
- Reviewing the role of the planning system in licensed premises and gaming.
- Reviewing car parking rates in the context of transport mode shifts.
- Updating bicycle rates required for development to reflect environmentally sustainable goals.
- Investigating the use of an incorporated document to outline general permit exemptions (for 'minor' works such as external paint colours or front fencing) to the Heritage Overlay.
- Reviewing the use of Section 173 agreements and proposing to limit content through use of a pro-forma template.
- Updating the definitions and land use terms.

3. KEY INFORMATION

3.1 A draft submission is provided at Attachment 1. It is structured under the 5 key proposals in the Discussion Paper:

- Proposal 1: A simpler VPP structure with VicSmart assessment built in
 - 1.1. Restructure and reform the Particular Provisions at Clause 50 (e.g. ResCode) into a more understandable and consistent format.
 - 1.2. Integrate VicSmart into appropriate Particular Provisions and overlay



schedules.

1.3. Consolidate all administrative provisions (including Incorporated Documents and other operational provisions) in one location.

- Proposal 2: An integrated Planning Policy Framework

2.1. Integrate state, regional and local planning policy into a single policy source called the Planning Policy Framework (PPF).

2.2. Simplify the Municipal Strategic Statement (MSS) into a more concise format.

2.3. Expand policy themes to include additional policy themes that support appropriate regional and local policies to be included in the PPF.

2.4. Create a clearer and simpler structure for policy making through use of a standard format for the PPF that includes objectives, strategies and policy guidelines.

2.5. Set new rules and guidelines for writing policy.

- Proposal 3: Assessment pathways for simple proposals

3.1. Embed a VicSmart assessment pathway in appropriate particular provisions and overlay schedules.

3.2. Introduce new code-based assessment provisions for simple proposals, to support small business, industry and homeowners.

- Proposal 4: Smart planning scheme drafting

4.1. Create a new VPP user manual.

4.2. Establish a business unit dedicated to VPP and planning scheme amendment drafting.

4.3. Create an online Victorian planning library.

- Proposal 5: Improve specific provisions.

5.1. Improvements to specific provisions (This includes 50 changes that are proposed to the specific provisions of the VPP, and covers a broad range of matters from a review of the names of overlays, to including specific as of right uses in certain zones).

5.2. Update the Definitions section of the VPP.

5.3. Regularly review and monitor the VPP.

3.2 Under each proposal, the draft submission outlines:

- The key options for discussion.
- Overall position of Council.
- Considerations for Port Phillip with an outline of Council's broad position on each issue.
- Recommended approach to reforms, to explain key outcomes and implementation priorities sought by Council.



- 3.3 The table included as [Appendix I](#) to the draft submission ([Attachment I](#)) provides a more detailed response to the specific proposals outlined under Proposal 5: Improve specific provisions.
- 3.4 The draft submission has been prepared having regard to previous Council submissions made to proposed planning reforms and key strategic plans such as *Plan Melbourne*, and is aligned to the following key principles:
- The structure of the planning scheme should aid usability.
 - Local policy should be supported with sufficient scope and decision-making weight to enable strategic objectives to be expressed and outcomes to be delivered at the municipal level.
 - A code-based assessment for simple proposals may be supported where there are clear parameters for compliance.
 - Reducing permit triggers may be supported where appropriate, to enable resources and effort to be focused on key planning issues.
 - A focus on simplifying planning processes must not come at the expense of achieving good planning outcomes or reducing appropriate third party involvement in the planning process.
 - Planning considerations for proposals such as licensed premises and gaming should not be deferred for consideration under separate legislation when planning has a legitimate role to play in considering the spatial implications.
 - A clear and consistent transitioning process, supported by allowing adequate time and State Government support, is required for Local Governments to implement any reforms.
- 3.5 Overall, the draft submission expresses support for the fundamental objectives sought by the reforms, being to simplify and realign the structure of the VPP with contemporary expectations.
- 3.6 In relation to the key reforms of the Discussion Paper, the draft submission highlights:
- Support for permit exemptions where appropriate to enable a focus on key planning issues.
 - Support for a new State Government business unit dedicated to VPP, however submit that this would be more beneficial and efficient as an advisory service rather than an amendment drafting service.
 - Support for updates to:
 - the car parking and bicycle rates for development to reflect a shift toward more sustainable modes;
 - to the land use terms and definitions in line with contemporary planning requirements; and
 - the use of an incorporated document to outline general permit exemptions to the Heritage Overlay.
 - In-principle support for the development of a new VPP user manual that repackages existing practice notes and provides guidance on policy writing.
 - In-principle support for streamlining particular and general provisions.



- In-principle support for a more concise MSS.
 - In-principle support for code-based assessments for secondary dwellings, provided there are clear parameters for compliance.
 - Qualified support for an integrated Planning Policy Framework provided that there is sufficient flexibility within the policy framework to support the broad nature of local policy and allow a comprehensive response to local planning issues. Strongly support strengthening of local policy under this proposal.
 - Qualified support for a customisable template for local policy that is able to include maps to assist in the visual representation of policy. This should also include the ability for local governments to include customised decision-guidelines to guide discretion in applications, application requirements and definitions.
 - Concern for proposals to further streamline planning controls and approval processes which limit community involvement in the planning process, or reduce local government's decision-making responsibilities. This includes the code-based assessments proposed for small cafes / restaurants, home-based businesses and small lots where there may be off-site amenity considerations.
 - Concern for the proposed reform to the gaming provisions and proposal to provide permit exemptions for licensed premises within a Commercial Zone. Cautioned that planning considerations for these proposals should not be deferred for consideration under separate legislation when planning has a legitimate role to play in considering the spatial implications.
 - Do not support a reduction in content flexibility of Section 173 agreements that are utilised to enable a broad range of planning outcomes.
 - Concern that that this is a missed opportunity to address gaps in planning tools that are impacting Council's ability to effectively implement key planning policies of *Plan Melbourne 2017-50*. This includes planning mechanisms to implement housing diversity and affordability, achieve a 'true' mixed use, facilitate retail-mix in activity centres and adapt to climate change.
 - Concern that a number of policy 'gaps' at State level that should be addressed through this review, with further policy direction required for accessible housing, affordable 'aged care' accommodation, Port Phillip Bay, and liveability.
- 3.7 Given the large number of reforms proposed to specific provisions contained in the Discussion Paper, we have sought to identify specific initiatives that should be prioritised for immediate improvements to be realised. Priorities include:
- Update to more sustainable car parking rates.
 - Update to more sustainable bicycle parking.
 - Heritage incorporated document for (minor) permit exemptions.
 - Review of land use terms and definitions.
 - The approach of using overlays to identify buffers.
 - Review Land Adjacent to a Road Zone Category I to include a definition for



the term 'create or alter access'.

- 3.8 In relation to implementation, the draft submission highlights the need for the State Government to ensure the proposals have been adequately tested with local government to avoid unintended consequences. Further, a clear and consistent transitioning process is required, supported by allowing adequate time and State Government support in recognition that the implementation of the reforms is likely to be resource intensive for local government.
- 3.9 Council officers have submitted a draft, without prejudice interim submission to the State Government to meet the closing date for submissions, which was the 24 November 2017. A final submission will be lodged with the State Government following Council's endorsement.

Options

- 3.10 Council has the following options:
- Option 1 – Endorse the submission provided at Attachment I (with or without changes).
 - Option 2 – Determine not to make a submission to the Discussion Paper.
- 3.11 Option 1 is recommended. The submission provides Council with the opportunity to articulate its support for the reforms and identify where there are areas of concern. It also allows Council to highlight what it considers to be the priorities for implementation.



FURTHER SUPPORTING INFORMATION

4. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 4.1 The draft submission to the Discussion Paper advocates for outcomes that are consistent with and would implement the Council Plan 2017-27 Strategic Direction 4: We are growing and keeping our character.

5. CONSULTATION AND STAKEHOLDERS

- 5.1 Council officers have provided feedback to the Municipal Association of Victoria to help inform their submission representing the broader interests of Local Government.

6. LEGAL AND RISK IMPLICATIONS

- 6.1 There are no significant legal or risk implications with preparing and lodging a submission to the Discussion Paper. There may be a reputational risk should Council determine not to make a submission that advocates for the best outcomes for the Port Phillip community.

7. SUSTAINABILITY – Triple Bottom Line

7.1 ENVIRONMENTAL IMPLICATIONS

- 7.1.1 There are no direct sustainability implications of Council making a submission however, a range of sustainability issues have been raised and advocated for in the draft submission (i.e. supporting a review into car parking and bicycle rates).

7.2 SOCIAL & CULTURAL IMPLICATIONS

- 7.2.1 There are no direct social & cultural implications of Council making a submission however, a range of social and cultural issues have been raised and advocated for in the draft submission (i.e. expanding policy to address Liveability).

7.3 ECONOMIC IMPLICATIONS

- 7.3.1 There are no direct economic implications of Council making a submission however, some economic have been raised and advocated for in the draft submission (i.e. expanding the scope of the review to provide contemporary planning tools to create vibrant activity centres).

7.4 FINANCIAL IMPLICATIONS

- 7.4.1 There are no direct costs associated with making a submission to the Discussion Paper, aside from officer time.
- 7.4.2 There is anticipated to be significant resource implications for implementing the reforms. In recognition of this, the draft submission requests sufficient time and assistance in implementing the reforms from State Government Further the submission requests the revised structure be conducted at the same time as the forthcoming Planning Scheme review, in order to reduce the staff resource impacts.



8. IMPLEMENTATION STRATEGY

8.1 TIMELINE

- 8.1.1 If endorsed, Council’s final submission to the Discussion Paper will be lodged immediately with the Department of Environment, Land, Water and Planning, replacing the interim submission that was lodged on 24th November 2017.
- 8.1.2 Gazettal of the reforms is expected next year, with the simple, low-risk reforms anticipated in early 2018 and the more complex reforms anticipated in mid-2018.

8.2 COMMUNICATION

- 8.2.1 The endorsed submission will be:
 - Sent to the Department of Environment, Land, Water and Planning, and
 - Placed on Council’s website.

9. OFFICER DIRECT OR INDIRECT INTEREST

- 9.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.