

Discussion Paper: Reforms to the Victoria Planning Provisions

City of Port Phillip Submission
December 2017



Executive Summary

The City of Port Phillip welcomes the opportunity to make a submission to the Discussion Paper: *Reforming the Victoria Planning Provisions*. Council is supportive of the initiative to simplify and realign the structure of the *Victoria Planning Provisions* (VPP) with contemporary expectations.

It is acknowledged that the scope of this review is limited to the structure and operation of the VPP. However, Council considers that there is an opportunity to address gaps in policy and to ensure that adequate planning tools are available to effectively implement *Plan Melbourne 2017-50* as well as local planning policies and strategies. Council considers that the scope of the review should be broadened to address these gaps.

Council supports a number of the proposals outlined in the Discussion Paper. In particular, the key proposal to move towards an integrated Planning Policy Framework (PPF) that collates state, regional and local policy is supported on the grounds that it proposes to strengthen the application of local policy. However, it is critical that sufficient flexibility is included to allow for comprehensive responses to local planning issues and emerging policy needs and the broad use of maps and diagrams throughout to express the relationship between thematic concepts at the place level.

Given the large number of reforms proposed to specific provisions contained in the Discussion Paper, Council has identified that the following proposals should be prioritised:

- The proposal to strengthen the application of local planning policy.
- Improvements to the online access of planning information.
- The ongoing regular review and monitoring of the VPP.
- Updates to the car parking and bicycle rates for development to reflect a shift toward more sustainable modes.
- Updates to the land use terms and definitions in line with contemporary planning requirements.

Additionally, Port Phillip provides in-principle support for the following proposals:

- Streamlining particular and general provisions.
- A more concise Municipal Strategic Statement (MSS).
- Code-assess for secondary dwellings (granny flats).
- A new VPP user manual and guidance on policy writing.

Generally, proposals for streamlining planning controls and approval processes which limit community involvement in the planning process, or reduce local government's decision-making responsibilities, are not supported by Council. This includes the proposed code-assess for small lots (less than 500sqm) and home occupation.

Council also does not support the proposed reforms to the gaming provisions or for licensed premises. Planning considerations for these proposals should not be deferred for consideration under separate legislation. This is because planning has a legitimate role in considering spatial issues, cumulative and amenity impacts as well as the overall land use mix.

Finally, consideration must be given to the roll-out of any reforms to the VPP. The State Government must ensure the proposals have been fully tested with local government to avoid unintended consequences. A clear and consistent transitioning process, supporting by allowing adequate time and State Government support, is required to assist local government to implement any reforms.

Introduction

This submission responds to each of the five proposals outlined in the Discussion Paper:

- 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: Smart planning scheme drafting
- Proposal 5: Improve specific provisions.

The attached table included as [Appendix 1](#), provides a more detailed response to the specific proposals outlined under Proposal 5: Improve specific provisions.

Under each proposal, the submission outlines:

- The key issues and options proposed in the Discussion paper relevant to Port Phillip
- Overall position for Port Phillip.
- Considerations for Port Phillip – an outline of Council's broad position on each proposal
- Recommended approach of reforms sought by Port Phillip.

Many of the proposals within the Discussion Paper are conceptual only at this point in time. As a result, Council reserves the right to ultimately take a different view on any proposals contained within when detail is available around the specific changes from a drafting, outcome and process perspective. For this reason, all proposals should be the subject of further consultation and testing with local government once they have been suitably developed.

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

1.1 Restructure and reform the particular provisions

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Restructure the particular provisions into new categories including General performance standards and requirements, Specific use and development provisions, Interface provisions, Specific sites, areas and exclusions.
- Recognise the function of the different types of provisions.
- Reform the particular provisions into a more understandable and consistent format.

Overall position

Support in-principle.

Considerations for Port Phillip

The proposals are likely to improve the structure to improve useability, provide clearer assessment pathways for specific uses and development and ultimately will facilitate the development of 'one stop shop' provisions for simple proposals.

However, a process for implementation has not been outlined. Adequate consultation with local government on the proposed translation and drafting should be provided to test the restructured provisions.

Recommended approach to reforms

- Restructure and reform the particular provisions following consultation with local governments on the draft particular provisions.
- Integrate 'VicSmart' into appropriate particular provisions and overlay schedules.

1.2 Integrate VicSmart into appropriate particular provisions and overlay schedules

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Integrate VicSmart classes into the particular provisions and overlay schedules where appropriate.
- Emphasise simple assessment pathways (Permit exempt and VicSmart)

(This proposal is related to Proposal 3.1)



Overall position

Support in-principle.

Considerations for Port Phillip

Integrating VicSmart provisions into appropriate local schedules would enable Council to streamline its assessment of simple applications. Simplifying the structure of the VPP in this manner would also help to reduce unnecessary complexity.

However, a process for implementation has not been outlined. Adequate consultation with local government on the proposed translation and drafting should be provided to test the restructured provisions.

Recommended approach to reforms

Integrate VicSmart classes into the particular provisions and overlay schedules where appropriate following consultation with local governments on the draft provisions.

1.3 Consolidate all administrative provisions

Key 'Options for Discussion'

The Discussion Paper proposes to consolidate the list of incorporated documents and other administrative / operational provisions in one location within the 'General provisions' section.

Overall position

Support.

Considerations for Port Phillip

Consolidating the list of incorporated documents and other administrative / operational provisions into a central 'General Provisions' section would simplify the structure of the VPP, reduce complexity and aid the usability of planning schemes.

Recommended approach to reforms

Create a 'General Provisions' section for Incorporated documents and other administrative and operational provisions following consultation with local governments on the draft general provisions.

Proposal 2: An integrated planning policy framework

2.1 Integrate state, regional and local planning policy

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Merge the SPPF and LPPF into a single policy source called the PPF, with three levels of policy: state, regional and local.
- 'Nest' local policy under State policy.
- Group policy by theme, e.g. 'Housing', 'Economic Development'.
- Make the operational provisions of state, regional and local consistent so that each level of planning policy would be consistently applied. (Note: this would increase the decision-making weight of local policy)
- Tailor the PPF to each planning scheme (for example, the Coastal Policy Clause would only be contained in the planning schemes for municipal areas that abut a coastline).
- Implement the new PPF by reviewing existing regional and local planning policies, and redistributing them under relevant planning policy themes.

Overall position

Support, contingent upon:

- Improvements to the proposed structure of the revised PPF so that it flows more logically from big picture issues to the neighbourhood and/or precinct level; and
- The structure of the PPF is flexible to accommodate emerging thematic policy issues, over time.

Considerations for Port Phillip

Integrating State, regional and local planning policy will provide clearer links from State policy to local policy and will reduce repetition between state and local objectives and strategies – an outcome supported by Council. Further, tailoring the PPF for each planning scheme will ensure that each scheme contains only relevant content applicable to the municipal area. For example, for Port Phillip this would mean the removal of policy relating to alpine areas, bushfire threat and agricultural land.

Council strongly supports the proposed increased decision-making weight to be given to local policy. This would require planning and responsible authorities to give equal weight to all three tiers of policy (state, regional and local). This will ensure consideration is given to the local context and strategic initiatives that build on state and regional policy considerations, which is often not currently the case.

While Port Phillip supports the fundamental outcomes sought by integrating State, regional and local policy, a number of refinements are proposed to ensure that local policy is supported by

sufficient detail to enable strategic objectives to be expressed and outcomes to be delivered at the municipal level. These are outlined below.

Flexibility to address emerging themes

Planning issues are dynamic and constantly evolve. Therefore, the PPF must be drafted to be enabling rather than rigid in its application. This will ensure that important and emerging policy issues can be appropriately responded to and considered. A recent example of progressive council-led policy development that has been significantly hindered as a result of such an approach can be seen with the Environmentally Sustainable Development local planning policies.

The thematic structure should be flexible enough to allow for a local interpretation of the broader VPP policy directions. Local government should be able to add customised local policy sub-themes to more easily reflect the broad range of Council policies, allow a comprehensive response to local planning issues and deliver best practice.

Ability to address themes in an integrated manner

The revised structure of the PPF locates all State, regional and local policy on a particular issue within the one clause. This revised structure works well for some topics in the PPF such as Heritage or Housing, however for other topics, dividing policies up by themes limits the ability to cohesively address complex planning matters and an integrated approach to particular issues.

For example, many Councils are developing policies on Integrated Water Management and Integrated Transport. These policies reflect a multifaceted approach to a particular issue. For example, managing all aspects of the water cycle in a more integrated fashion introduces broader benefits related to landscape architecture, urban design, biodiversity and open space as well as the traditionally associated issues of potable water use, flood management, and water quality. These policies would be weakened if they had to be split and redistributed into rigid, single issue themes.

Proposed structure of the PPF

The structure of the proposed PPF does not follow a format that logically flows across thematic big picture issues to more localised place based considerations in an integrated manner. As a result, Council is concerned that the narrative for Port Phillip from a strategic context would be lost.

In particular, *Clause 11.03 – Planning for Places* in the proposed PPF confuses the flow as it includes a mix of broad overarching strategies as well as 'Local Places'. Council considers the inclusion of these policies (Neighbourhoods and Local Places) at this point is premature in the structure. Decision makers and the community should be provided with a clear context of issues and concepts such as the role of activity centres in housing growth (Housing Policy), the retail / service role of various activity centres (Retail policy) and any broad built form directions which go on to inform the specific local area policy. Council therefore submits that policy themes should be pitched in a more integrated fashion and that local places should be relocated to the end of the PPF.

Recommended approach

- Merge the SPPF and LPPF into the PPF which is tailored to each scheme.
- 'Nest' local policy with State and Regional policy.
- Expand PPF themes where necessary to ensure it can accommodate existing and proposed local policy, with increased-decision making weight given to local policy.
- Make the structure of the PPF flexible to accommodate emerging thematic policy issues, over time.
- Improve the proposed structure of the revised PPF so that it flows logically from big picture issues to precinct/neighbourhood policies.

2.2 Simplify the Municipal Strategic Statement

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Replace the current format of the Municipal Strategic Statement (MSS) located at Clause 21 with three new clauses – 10.01: Municipal context, 10.02: Municipal vision and 10.03 Municipal strategic framework plan.
- The new format MSS would contain information specific to the municipality, such as location and regional context, history, assets and strengths, key attributes and influences.
- Content that currently sits within the MSS but is not context or vision (e.g. strategies and objectives contained in Clause 21.04: Land Use and Clause 21.05: Built Form) would be reviewed and integrated into the PPF.

Overall position

Support in-principle.

Considerations for Port Phillip

A concise and clear MSS will make for a clearer, more user friendly scheme format. A Municipal Strategic Framework Plan is strongly supported as it will provide a high level spatial plan to direct the strategic planning outcomes sought by Council and provide support to Council's local policies.

Further, the use of maps and diagrams throughout the MSS should be permitted to visually integrate the different themes. For example, the integration of transport and activity centres.

Recommended approach to reforms

Simplify the MSS to include local context, vision, accompanying maps / diagram and a strategic framework plan following further consultation with Council on the changes to its Scheme and appropriate timeframes.

2.3 Expand policy themes

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Commence the PPF with a municipal context and vision, and then a settlement policy that includes growth and place-based policy, and then followed by thematic-based policies.
- Expand the existing SPPF thematic structure. New sub-themes include: Planning for places, Waterways and water bodies and Amenity.
- Accommodate local planning policy within the expanded thematic PPF structure without losing critical local content.

Overall position

Support, contingent upon:

- ensuring that the expanded thematic structure of the PPF enables existing local policy issues to be addressed; and
- expansion of the thematic structure to address 'gaps' in State policy on accessible housing for multiple dwellings, affordable aged care accommodation, Port Phillip Bay and liveability.

Considerations for Port Phillip

Expanding the existing SPPF thematic structure is intended to ensure the revised PPF has the capacity to deliver policy intentions at state, regional and local levels. In this regard, Council supports the proposed inclusion of the proposed new or reconfigured policy themes to address place-based outcomes, advertising signs, amenity (including non-residential uses in residential zones), climate change and employment. However, a quick review of existing policy in the Port Phillip LPPF has identified a number of existing policy issues or sub-themes that would not comfortably fit within the revised PPF because of the way it has been structured. For example, sustainable development only deals with energy efficiency despite only being one part of what makes for a sustainable development. It is also noted that some policy themes such as social planning, harm minimisation, and recreation are seemingly absent.

For the avoidance of any doubt, Council does not support the removal of any local policy content on the basis that it does not fit within a rigid nesting structure. As previously noted in this submission, sufficient flexibility is required within the thematic structure to allow Councils to add customised local policy sub-themes to reflect the broad nature and allow a comprehensive response to local planning issues. Further, translating local policy to a new format PPF should be undertaken in close consultation with Local Government to ensure that intended local policy outcomes are not restricted.

Refer to response to Proposal 2.1 – 'Integrate State, Regional and Local Policy' for further discussion.

Gaps in State policy

Council acknowledges that State Government is progressing policy development for affordable housing, climate change, environmentally sustainable development and infrastructure funding, in

the implementation of *Plan Melbourne*. However, a review of the revised PPF has revealed further policy gaps or areas (in addition to those outlined above) where additional policy guidance at the State / Regional level should be provided.

In past submissions on State Policy, including the *Review of the Planning Policy Framework*, Council has identified a number of these gaps and submitted that the State Government must take a leadership and coordination role to respond to key issues.

Requiring accessible housing

Council is committed to strengthening a diverse and inclusive community. Clause 16.01-1 in the PPF provides an opportunity to facilitate accessible housing.

Accessible housing is not included within *Cl. 16.01-1 Integrated Housing*. While it is acknowledged that the *Better Apartment Design Standards* have introduced accessibility requirements for apartment developments of five storeys or more, Council considers that these requirements should be further applied to proposals of 5 or more dwellings and should deliver the following:

- All new housing should be 'visitable' by persons with a disability or mobility impairment.
- 1 in 5 new medium density dwellings should be universally accessible through features including:
 - A clear pathway to a step free, well-lit entry with easy access to car parking.
 - Wider doorways and corridors.
 - Accessible toilet and bathroom on the dwelling entry level.
 - Reinforced walls in bathrooms, showers, and toilets to allow any future fitting of grab rails.
 - Provision of a step free shower for any bathroom at the ground level of dwellings.
- Adaptable design features for new housing should meet the needs of persons/households across all life stages.

Acknowledging the need for 'affordable' aged care accommodation

Council supports the objectives, strategies and guidelines supporting the development of residential aged care accommodation (in Clause 16.01-7). This is critical to supporting the housing needs of an ageing society. The location of this accommodation close to shops, services and public transport is necessary to ensure they are easily visitable to the general community and well-located for their residents.

The Policy should be amended to include 'affordable' aged care accommodation to ensure that residential aged care accommodation meets the needs of all incomes.

Recognise the importance of Port Phillip Bay

The PPF should be expanded to include a 'thematic area' specifically relating to Port Phillip Bay. This would help to facilitate more coordinated management of and investment in the foreshore with adjacent councils, the Port of Melbourne Corporation, DELWP, Parks Victoria, Melbourne Water and other water / catchment authorities.

Plan Melbourne identifies the Bay as one of Victoria's most popular tourist destinations and an ecological treasure. However the PPF does not provide for adequate policy direction on how the Bay can be protected.

The following key issues should be emphasised within the PPF:

- Protecting foreshore assets and infrastructure, and mitigate coastal erosion from climate change impacts such as sea level rise and storm surges.
- Protecting the sense of place and character, particularly within an urbanised environment.
- Expanding on the tourism policies which are specific to Port Phillip Bay.

Expand policy on Liveability

The PPF should be expanded to include an integrated policy on 'liveability'. This would enable Council to deliver 'Liveability in a high density city', an outcome sought by *Council Plan 2017 – 27* and a key theme of *Plan Melbourne*. This would help to elevate the importance of liveability, and allow the broad range of contributing policy issues to be addressed in one location rather than distributing relevant inputs throughout the PPF.

Liveability refers to the degree to which places are safe, attractive, environmentally stable and socially cohesive and inclusive. This requires affordable and diverse housing, convenient public transport, walking and cycling infrastructure, access to education and employment, public open space, local shops, health and community services, and leisure and cultural opportunities (Lowe et al. 2013)¹. In addition to the above, the Policy should cover green infrastructure, canopy cover, food sensitive urban design and amenity (attractiveness and shading).

Recommended approach to reforms

- Further expand the revised PPF to cover key local policy issues addressed through existing local policy (Clauses 21 and 22 of the LPPF).
- Expand the revised PPF to address 'gaps' in state policy identified above.

¹ Victorian Public Health and Wellbeing Plan 2015-2019

2.4 Create a clearer simpler structure for policy making

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Utilise a new standard format for PPF policy.
- The proposal content for local policy, would include:
 - Policy application (optional inclusion) – where the policy applies to.
 - Policy context (optional inclusion) – motive for the policy.
 - Objective (optional inclusion) – aim of the policy.
 - Strategies (mandatory inclusion) – how the policy is to be achieved.
 - Policy documents (optional inclusion) – incorporated documents and background documents (proposed renaming of reference documents).
 - Maps (optional inclusion) – visual representation of the policy, or where the policy applies.

Overall position

Support, contingent upon:

- ability to customise the template to meet desired local policy outcomes;
- inclusion of maps in local policy; and
- ability for local government to be able to include application requirements, decision guidelines and definitions where it is critical to achieving policy outcomes.

Considerations for Port Phillip

A pro-forma template for policy, at all levels (state, regional and local) that includes maps and diagrams throughout would ensure consistency within the PPF across all planning schemes, and would assist in the visual integration of spatial planning and policy. It would also ensure that policy is drafted and set out in a manner that precisely target matters that affect decision making.

However, there should be some flexibility for councils to customise policy content where it clarifies policy interpretation or is crucial to enabling strategic outcomes at a local level. A review of existing Port Phillip local policy identified the following sections that would not be translated to the proposed template:

- Application requirements generally outline the information required to be submitted with a planning application in order for an assessment of a proposal to take place against the policy objectives. This section provides transparency to applicants, and is critical to effectively implementing local policy.
- Decision guidelines provide a fundamental role in guiding discretion in planning applications. Local policies require customised decision guidelines as the considerations vary depending on the policy issues. The decision guidelines contained in zones and overlays are likely to be too generic to facilitate the outcomes sought by local policy.

- Definitions provide a role that supports policy implementation. Port Phillips Heritage Policy (Clause 22.04) defines the terms 'heritage place', 'significant heritage places', 'contributory heritage places', and 'non-contributory heritage places' which are then referred to throughout the policy. An inability to define policy terms may result in inconsistently applied policy, or policy that when applied, does not meet its intent.

Recommended approach to reforms

- Prepare standard format for PPF policy that is able to be customised by Local Government pending the policy guidance required and strategic outcomes sought.
- Include standard sections in the new standard format addressing 'Definitions', 'Application Requirements' and 'Decision Guidelines'.

2.5 Set new rules and guidelines for writing policy

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Prepare new policy rules that would set out tests for whether a planning matter is appropriate for inclusion in the PPF (i.e. it should have a land use or development focus, and relate to a discretion in the planning scheme).
- Include the new policy rules in a Ministerial Direction or in the new VPP user manual discussed in Proposal 4.1.

Overall position

Support in-principle as a guideline only.

Considerations for Port Phillip

The preparation of material to support the drafting of new planning scheme material would ensure more consistent policy within all planning schemes. This would also reduce superfluous policy content, ensuring that local policy precisely targets the relevant issues.

However, it is considered that prescribed formats and rigid 'rules' increases the risk of inadvertently limiting the ability to draft policies that respond to a unique local issue or address a gap in state policy. The drafting rules should be provided as guidelines only.

Recommended approach to reforms

Prepare a new document to guide the drafting of policy drafting that remains flexible to deal with a broad range of outcomes and needs.

Proposal 3: Assessment pathways for simple proposals

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

Key 'Options for Discussion'

The Discussion Paper proposes to revise the structure and templates for 'appropriate' particular provisions and overlay schedules to integrate VicSmart.

See position outlined in Proposal 1.2.

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

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Develop new code-based assessment provisions for simple proposals, such as:
 - Small café/restaurants
 - Basic set of approvals for the conversion of a building in an existing commercial centre to a café, where the proposal complies with pre-set criteria such as maximum seating capacity.
 - Approvals may include car parking waiver/reduction, low-impact advertising signs, liquor licenses and minor buildings and works.
 - Temporary retail or cultural activity standards
 - 'Pop up' retail and cultural activity uses in vacant spaces in commercial centres.
 - 'Home occupation plus' or 'live/work unit' standards
 - Could facilitate small home based businesses and creative industries
 - Secondary dwelling ('granny flat') standards
 - Small lot standards

Overall position

Support contingent upon code-assess not extending to uses or developments that may have off-site amenity considerations given the resulting loss of third-party rights.

Considerations for Port Phillip

Expanding the use of 'VicSmart' and creating a code-based approval process for simple proposals would speed up decision-making and provide more certainty. It would also improve efficiency by allowing greater resources to respond to complex assessments. As a result, simplifying assessment pathways for specific low-impact uses and types of development is supported in principle.

However, Council does not support code-based approvals for uses or developments that may have off-site amenity considerations given the resulting loss of third-party rights, for example, new dwellings on small lots or medium-density housing.

The benefits of this approach must be carefully balanced against the potential to cause unintended consequences by expanding the scope of VicSmart too far. This should be mitigated through testing of any new assessment pathways with local government. If too many classes of applications have 'VicSmart' applied this may also have operational impacts for Council by increasing the number of planning applications that need to be decided within 10 days. This has the potential to detract from Council's ability to prioritise applications with broader policy issues.

Small café/restaurants

Small cafes/ restaurants are generally supported in Port Phillip's commercial areas as they can create activation and vibrancy and provide small-scale employment. However, Council has reservations about a code-based approval involving a licensed premises. Council's current planning scheme review has identified issues regarding consistently high levels of complaints and compliance investigations relating to licensed premises and adverse amenity impacts associated with them. These are predominantly located within our commercial zones. As a result, a licensed premises policy may be required to provide further guidance on permit discretions. Additionally, code-assess for small cafes / restaurants would further reduce the ability for Councils to contribute toward a retail mix in activity centres.

A code-based process for other basic approvals for small cafes/restaurants within existing commercial areas (subject to pre-set criteria) may be supported however this should exclude a permit for licensed premises. The drafting of any pre-set criteria should be undertaken in consultation with local government and should include maximum size and operating hours. See also section '*gaps in planning tools*' in response to [Proposal 5.1](#) of this submission on influencing a balance in retail mix within a centre where the code assess approach would also work if the permit trigger for land use was reinstated.

Temporary retail or cultural activity standards

Council supports the outcome sought by codifying temporary uses or 'pop-ups' in commercial centres, which helps to create vibrant centres and supports place-making. While a permit is currently not required for a shop in an existing commercial centre, a permit is required for a car parking waiver/deduction. On that basis, rather than a 'code-based approval' for temporary uses, a permit exemption for temporary retail could be explored.

'Home occupation plus' or 'live/work' unit standards

Council encourages home-based businesses and creative industries to support job creation and employment diversity. However, Council does not support a code-assessed approval for those uses in residential or mixed-use zones given the potential for off-site amenity impacts and third party rights which must be considered during the planning permit process.

Secondary dwellings or granny flat standards

Council supports a code-based assessment process for secondary dwellings. The provision of secondary dwellings, or 'granny flats' contributes to housing diversity and housing affordability, supporting an outcome sought by our Council Plan 1.2 - *An increase in affordable housing*.

Pre-set criteria should be developed in consultation with local government and should give consideration to maximum size of a granny flat, minimum size of a lot, heritage, environmental constraints and setbacks to property boundary. Further, future subdivision must be restricted.

Small lot standards

Council does not support a code-based assessment process for small lots (i.e. less than 500 sq meters). Smaller lots have greater potential for off-site amenity impacts which should be given full consideration in the planning permit process, where there is appropriate third party rights.

Recommended approach to reforms

Develop code-based assessment provisions for secondary dwellings ('granny flats'), and small café / restaurants (retaining a separate permit requirement for a licenced premises) in consultation with local government.

Proposal 4: Smarter planning scheme drafting

4.1 Create a new VPP user manual

Key 'Options for Discussion'

The Discussion Paper proposes to develop a new VPP user manual that includes business rules for the drafting and application of planning scheme provisions.

See position outlined in Proposal 2.5.

Recommended approach to reforms

Develop a new VPP user manual providing guidance (rather than prescriptive rules) on the drafting and application of the VPP.

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

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Establish a business unit in DELWP dedicated to:
 - Ongoing development and review of business rules for the drafting and application of VPP and local provisions.
 - Drafting proposed planning provisions and amendments for Councils.
 - Ensuring proposed planning scheme amendments are prepared in accordance with the VPP user manual.

Overall position

Partially support.

Considerations for Port Phillip

Port Phillip supports the creation of a business unit dedicated to managing the VPP. However, an advisory service would be more beneficial and efficient than a drafting service (i.e. a technical support and advice, not content creation and control).

Meaningful and early engagement with State Government agencies on the drafting of planning scheme material is a positive initiative. Under this proposal, planning scheme provisions have the potential to be clearer, more legally effective and consistent across the State. It also has the potential to minimise the extent of protracted argument at the end of the process.

Recommended approach to reforms

Establish a business unit in DELWP dedicated to:

- the development and review of business rules for guidelines and applying VPP and local provisions;
- advising councils on proposed amendments and the use of planning provisions; and

- ensuring proposed amendments are prepared with appropriate reference with the VPP user manual guidelines.

4.3 Create an online Victorian planning library

Key 'Options for Discussion'

The Discussion Paper proposes to:

- Create an online library of all planning documents necessary for the operation of planning schemes. This would include:
 - Incorporated documents
 - Approved development plans
 - Background / reference documents
 - Important historic planning documents
 - Heritage citations informing the Heritage Overlay

Overall position

Support.

Considerations for Port Phillip

Improving the digital accessibility of planning scheme information as it would increase the transparency and accessibility of planning schemes.

Recommended approach to reforms

Create an online Victorian planning library.

Proposal 5: Improve specific provisions

5.1 Improvements to specific provisions

Key 'Options for Discussion'

The Discussion Paper proposes to make improvements to specific provisions of the VPP – see [Appendix 1](#).

Overall position

- Support in principle. See appendix 1 for detailed consideration of each proposal.
- State Government should consider broadening the scope of the review to address 'gaps' in planning tools required to implement state policy. This includes tools to:
 - implement housing diversity and affordability through a combination of incentives and mandated controls;
 - achieve 'true' mixed use and retain employment land through prioritising employment uses or allowing vertical zoning.
 - create vibrant activity centres through facilitating a mix of retail uses; and
 - adapt to climate change.

Considerations for Port Phillip

Rationalising permit triggers, exemptions and requirements to where they are likely to positively influence the outcome will help to ensure that the permit process focuses on the matters necessary to facilitate the outcomes of the Act. This has the ability to enable faster processing times and greater clarity regarding what is required. However, 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 of such proposals.

Careful consideration of each proposal is required to balance the benefits against the potential to cause unintended consequences.

A response to the proposals for specific provisions is included in [Appendix 1](#).

Port Phillip priorities for reforms to specific provisions

Given the large number of reforms proposed to specific provisions contained in the Discussion Paper, we have sought to identify 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.
- Review of land use terms and definitions.

- Review Land Adjacent to a Road Zone Category 1 to include a definition for the term 'create or alter access'.

Gaps in planning tools to implement policy

In general, the proposed VPP reforms are considered to be relatively superficial and do not address a number of fundamental planning issues Councils are grappling with which affect Council's ability to effectively implement key planning policies of *Plan Melbourne*.

Housing targets and mechanisms to achieve housing diversity and affordability

The ongoing decline in housing affordability is well recognised. Council strongly supports the recommendation of *Plan Melbourne* Implementation Plan (Action 24) that the VPP include a definition of 'social housing' consistent and continues to advocate for the issue of housing affordability/ The absence of planning mechanisms in the VPP to implement affordable housing severely limits the ability to provide a real result.

Planning mechanisms should be a combination of 'opt-in' (incentivised) provisions which offer increase development yield in return for the delivery of affordable housing as a community benefit, and mandated (inclusionary) controls. This will ensure certainty over the delivery of affordable housing and a diversity of housing products. Mandated affordable housing controls could be introduced in a staged manner to minimise market impacts in the short term, and should be available for regional or metropolitan wide application, including all renewal areas.

Vertical zoning to achieve 'true' mixed use areas / maintain adequate employment land

Plan Melbourne requires Council's to plan for the provision of adequate commercial land to support a competitive City and improve access to local jobs (Policy 1.1.7). However, the increasing desire for mixed-use areas and activity can see residential uses competing with commercial uses and employment opportunities.

The 2013 commercial zones reform resulted in many of Port Phillip's commercial areas defaulting to Commercial 1 Zone which allows a much broader range of uses to facilitate mixed use precincts, including the specific endorsement of residential uses in the purpose of the zone. The reform, along with the high market value of housing is resulting in a market preference for residential land use and a decline in office uses in office uses in mixed use areas.

Recent trends in planning applications within mixed use areas in Port Phillip sees the majority of applications favouring buildings with retail ground floor and dwellings above. A permit activity analysis of decisions over the last two years (July 2015-17) identified a significant loss of existing office buildings, with the majority of them converting to residential or mixed-use buildings.

The 2016 Managing Residential Development Advisory Committee Report acknowledged this issue.

"While the growth in apartments has many positive outcomes, the Committee agrees with the general proposition that the current dynamics in the residential market have favoured residential rather than commercial investment in some activity centres. This is potentially to the detriment of those activity centres and communities, where a more balanced provision of

land uses might achieve broader planning objectives relating to service provision, accessibility and employment creation.”²

The Stonnington C172 Panel which considered the introduction of ‘vertical zoning’ in the Chapel Street Activity Centre Zone which requires a permit for a residential use on upper floors if it is in an area where commercial uses are encouraged. The Panel considered the proposal to be innovative, facilitative and likely to achieve the intended outcomes.

Other inner city urban renewal precincts are also attempting to grapple with this issue:

- Melbourne City Council’s West Melbourne Structure Plan (draft for engagement) flags Council’s intention to create a customised schedule to the Special Use Zone to create a true mixed-use zone that facilitates a variety of employment uses, while allowing some residential uses.
- The Fishermans Bend Taskforce’s recently released Draft Fishermans Bend Framework and associated proposed planning controls foreshadow the creation of minimum commercial floor areas in ‘core’ areas as part of the introduction of Floor Area Ratios.

Currently, the core suite of VPP zones do not provide Councils with the ability to effectively create mixed use environments that protect employment land. While the ability exists for Council to achieve this by using the Activity Centre Zone, the process for introducing this zone has proven to be unnecessarily cumbersome and complex. Introducing the ability for the Commercial 1 Zone to be able to deliver vertical zoning outcomes and further guidance to enable the use of Floor Area Ratios to deliver minimum commercial use outcomes would be a welcome reform. This type of reform could also support light industrial uses to retain creative industries in urban manufacturing (‘makers’) in the inner city region.

Retail mix for viable activity centres

Plan Melbourne seeks to create a city of 20-minute neighbourhoods that facilitates local living, with easy access to a range of services and facilities. The Strategy notes that all activity centres have the capacity to grow and diversify the range of activities they offer to provide communities with access to a wide range of goods and services and local employment and to support local economies and the development of 20-minute neighbourhoods.

A recent activity centre supply and demand study identified that a number of Port Phillip’s activity centres are imbalanced in land use mix. Currently, a high proportion of floorspace is utilised for hospitality and entertainment uses (60% in the Fitzroy Street, St Kilda) resulting in an undersupply of land uses at serving the daily needs of local residents. For example, Fitzroy Street in St Kilda comprises 60% of floorspace hospitality and entertainment uses. This trend has the potential to undermine 20-minute neighbourhoods with activity centres being unable to supply their catchments with basic needs and services. It is also harming the vitality of centres by creating an imbalance in day and night time activities.

It is suggested that the commercial zones require a further review to ensure they can facilitate vibrant activity centres. Retail land use definitions and their need for permit discretion should be considered further to enable Councils to better facilitate a balance in retail mix.

It is common practice internationally for planning to more comprehensively consider shopping hierarchy and retail representation. For example, in the UK, local planning policy for permission to

² Managing Residential Development Advisory Committee Report, 14 July 2016, pg.133-134

change a use class to 'hot food takeaway' requires that it can only be permitted if no more than 40% of the street is already a 'hot food takeaway'.

Climate change adaptation

There is strong state-wide policy support for including climate change impacts into land-use planning, including *Victoria's Climate Change Adaptation Plan 2017-20* and *Plan Melbourne* which seek to reduce the likelihood and consequences of natural hazard events and adapt to climate change. However, there is little clarity on how local policy or application of VPP tools will facilitate this.

Council is currently working with the Municipal Association of Victoria and the Association of Bayside Municipalities on the Port Phillip Bay Coastal Planning Project (funded by DELWP) to respond and adapt to coastal climate change, including developing a planning framework and practical responses for managing coastal hazards. The project will help to shed more light on appropriate planning response to implement adaptation pathways, including the land use policy and potentially other tools in the planning scheme. Pending the outcomes of this review, it is suggested VPP tools may need to be developed to manage both a land use and development response in more high-risk circumstances where forecast impacts area severe.

Recommended approach to reforms

- See Port Phillips response to specific provisions in Appendix 1.
- Prioritise specific reforms to update car parking and bicycle rates, review the land use definitions and terms, and develop and incorporated plan to establish permit exemptions for properties in the Heritage Overlay.
- Expand the VPP reforms to address current gaps in planning tools including housing diversity and affordability, achieving 'true' mixed use, creating a retail mix in activity centres and climate change adaptation.

5.2 Update the definitions section of the VPP

Key 'Options for Discussion'

The Discussion Paper proposes to review the VPP land use terms and definitions.

Overall position

Support in-principle.

Key considerations for Port Phillip

Updating the VPP land use terms and definitions will ensure that the system is tailored towards to contemporary planning issues. The current definitions are at times highly contested and can have an inordinate influence over whether a use or development is permitted or prohibited. The review should include research into best practice, including interstate and overseas examples.

Recommended approach to reforms

Review and update the VPP land use terms and definitions.

5.3 Regularly review and monitor the VPP

Key 'Options for Discussion'

The Discussion Paper proposes to establish a process for ongoing reporting of VPP correction and reform suggestions.

Overall position

Support.

Considerations for Port Phillip

A process and requirement for ongoing reporting and review of the VPP has been recommended regularly since it came into operation, most recently in the 2017 Victorian Auditor-General's Report on *Managing Victoria's Planning System for Land Use and Development*. That report recommended that an advisory committee be established to regularly consider and review issues associated with the system of controls. To date, this recommendation has not been implemented.

Recommended approach to reforms

Establish a process for the State Government to regularly consider and review issues associated with the VPP.

Implementation

The Discussion Paper states that new initiatives, such as the structural reforms proposed under Proposal 1 would be tested in partnership with local government; however no information is provided on how they would be tested. A trial run would be supported with selected planning schemes, provided there was subsequent opportunity for Councils to make a submission on the results of such a trial. For reforms to specific provisions, there should be a process of legal review and testing with local government prior to gazettal. Further, State Government support is required to assist Local Government to implement any reforms that ultimately proceed.

The translation of the Local Planning Policy Framework to a new format, integrated PPF is proposed through work program in partnership with Local Government. No timeframes are stated for when this work is expected to commence or what length of time would be allocated for the translation to be completed. Ideally, a transition to a new PPF format should coincide with individual Council planning scheme reviews. If this cannot be done, then an appropriate timeframe must be allowed so that Council can consult its community as the transition is unlikely to remain policy-neutral.

Council is currently progressing its Planning Scheme Review, with the LPPF rewrite to commence in 2018. We are conscious that the proposed reforms and intends to restructure policy in a way that could have a substantial effect on this structure and are keen to ensure that any strategic work is not wasted. At the same time, Council is reluctant to pause given it has been several years since the last review was implemented. As a result, Council is keen to work in partnership with the State Government to manage the process as smoothly as possible.

There are also a number of reforms Council is considering in its Review, including a potential new licensed premises policy, applying more sustainable car parking rates through a parking overlay and heritage reviews. These are affected by proposals within Appendix 2 of the Discussion Paper. Council seeks clarification of which reforms DELWP intends to progress and a program of timeframes so we do not duplicate or carry out strategic work on superfluous matters or draft content in a manner that is likely to become superseded.

Finally, consideration must be given to the roll-out of any reforms to the VPP. The State Government must ensure the proposals have been fully tested with local government to avoid unintended consequences. A clear and consistent transitioning process, supporting by allowing adequate time and State Government support, is required to assist local government to implement any reforms noting this is likely to be resource intensive for Councils.

Recommended approach to reforms

- Further consultation with local government is required on the detail and timing of the reforms.
- In recognition that implementing the reforms is likely to be resource intensive for Councils, sufficient time and assistance from State Government will be required.

Appendices

Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
ZONES					
1	30	All zone schedules	<p>Review all zone schedules having regard to the following:</p> <p>a) Enhance the Ministerial Direction – The Form and Content of Planning Schemes to limit structural modifications (such as to headings and order, etc.) and ensure consistency across the VPP</p> <p>b) Ensure the distinction between the state and local clauses remains clear.</p>	<p>a) Qualified support.</p> <p>b) Support.</p>	<p>a) The goal of reducing unnecessary and repetitive content within schedules is supported however there is a risk that this will limit the ability for Council to effectively plan for its local areas.</p> <p>Port Phillip does not support a mandatory limit to content or flexibility that would erode Council's ability to effectively plan for desired outcomes for the sake of being concise.</p> <p>For example, strictly limiting Design and Development Overlay schedules to 5 objectives may force Councils to draft unnecessary additional schedules to provide a comprehensive vision and address important local issues.</p> <p>Other drafting issues could be resolved through the proposed new drafting advisory service (noting that Port Phillip does not support a 'drafting' service, and instead prefers an 'advisory' role).</p> <p>b) A clear distinction should be made between State and local clauses.</p>
2	30	All zones	<p>Review zones having regard to the following:</p> <p>a) Rename zones from being numerical (for example, 'Industrial 1 Zone') to being descriptive and adopting everyday words, such as used for the residential zones.</p>	<p>a) Support.</p>	<p>a) Adopting every day words for the zones would aid scheme useability and transparency to the community around what is intended. For industrial zones, and to recognise the evolution of modern urban industrial and employment precincts it is suggested that zone names may include light industrial / urban manufacturing / employment precinct.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>b) Examine the role and function of the following place specific zones (such as the Activity Centre Zone and Priority Development Zone) to establish whether they can be replaced with more generic VPP tools (such as the combination of the Commercial 1 Zone and a schedule to the Design and Development Overlay).</p> <p>c) Create consistency in use of phrasing where a common meaning applies (such as the phrases 'generally in accordance with', 'generally consistent with' and 'in accordance with').</p>	<p>b) Support in principle.</p> <p>c) Support.</p>	<p>b) Where appropriate, removing zones that serve the same function as others will assist to reduce the complexity of the scheme.</p> <p>However, Port Phillip does not support the removal of all place based zones and the replacement with only standard zones. Both the PDZ and ACZ provide specific controls to the scheme that need to be translated to other zones, this includes the ability to customise permit discretions (PDZ, ACZ) and allow for vertical zoning (ACZ).</p> <p>c) Using consistent phrasing throughout the scheme will aid interpretation.</p>
3	32	All Residential Zones	<p>Review residential zones having regard to the following:</p> <p>a) Make single dwellings on lots greater than 300sqm exempt from a planning permit by lowering the threshold for a permit from 500 to 300sqm (they are already exempt on lots greater than 500sqm), relying on the building code to address siting and design issues.</p>	<p>a) Do not support.</p>	<p>a) Port Phillip does not support permit exemptions for lots between 300 - 500sqm. Council has 'switched on' the requirement for a permit within this range in its proposed application of the General Residential Zone and Neighbourhood Residential Zone in Amendment C123.</p> <p>The complex layering of planning issues such as heritage, neighbourhood character and flooding is required to be assessed at the initial planning phase. Deferring 'design issues' to be assessed under the building code is not appropriate given the limitations of the building code in considering urban design and neighbourhood character.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>b) Make 'Childcare Centre' a Section 1 (as of right) land use within the Residential Growth Zone, subject to conditions, such as relating to size</p> <p>c) Redraft the following phrase used uniquely in the residential zones as a permit trigger: 'construction and extension of ...' and adopt the more commonly used 'to construct a building or construct and carry out works ...' to create consistency with other zones.</p>	<p>b) Do not support.</p> <p>c) Support.</p>	<p>Further, smaller lots have greater potential for off-site amenity impacts which should be given full consideration in the planning permit process, where there is appropriate third party rights.</p> <p>b) Childcare centres require a case by case assessment of locational issues and other matters such as access for drop off / pick-up, which is unable to be specified in a condition.</p> <p>c) Using consistent phrasing throughout the scheme will aid interpretation.</p>
4	32.04	Mixed Use Zone (Provides for a range of residential / commercial / industrial and other uses)	<p>Review the Mixed Use Zone having regard to the following:</p> <p>a) Make more commercial uses in the Mixed Use Zone Section 1 (as of right) land uses where they are low impact, subject to conditions.</p>	<p>a) Qualified support.</p>	<p>a) This may be acceptable subject to further information being provided as to what conditions would be imposed. It is important to consider that the mixed use zone is intended to provide a degree of amenity protection to residential uses while facilitating commercial uses. Any future proposal to remove permit discretion for land uses in mixed-use areas should be subject to consultation with local government.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>b) Make 'Manufacturing Sales' a Section 1 (as of right) land use with a condition relating to floor area size to support the establishment of small 'makers' and creative industries</p> <p>c) Make 'Childcare Centre' a Section 1 (as of right) land use, subject to conditions, such as relating to size.</p>	<p>b) Qualified support.</p> <p>c) Do not support.</p>	<p>b) See response to issue 4a on requiring further consultation with local government.</p> <p>c) See response to issue 3b on consideration of locational issues.</p>
5	33.01	<p>Industrial 1 Zone</p> <p>(Provides for manufacturing industry and storage and distribution of goods. Residential development is prohibited)</p>	<p>Review the Industrial 1 Zone having regard to the following:</p> <p>a) Make 'Motor Repairs' a Section 1 (as of right) land use with the standard condition relating to distance to a residential zone.</p> <p>b) Make 'Convenience Shop' a Section 1 (as of right) land use.</p>	<p>a) Qualified support.</p> <p>b) Support in principle.</p>	<p>a) Needs to include a condition to address the containment of vehicles on site. Suggest the following wording:</p> <p><i>"All vehicles associated with the motor repairs use must be parked on site at all times"</i></p> <p>b) Support subject to a floor space cap which is necessary to avoid the risk of eroding the industrial function of an area over time and to protect against out-of-centre development.</p>
6	33.03	<p>Industrial 3 Zone</p> <p>(Provides a buffer between</p>	<p>Review the Industrial 3 Zone having regard to the following:</p> <p>a) Make 'Motor Repairs' a Section 1 (as of right) land use with the</p>	<p>a) Qualified support.</p>	<p>a) See response to 5a regarding on-site parking.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
		more intensive industrial zones and local communities. Residential development is prohibited)	<p>standard condition relating to distance to a residential zone</p> <p>b) Make 'Office' a Section 1 (as of right) land use subject to maximum floor area requirements</p> <p>c) Make 'Indoor Recreation Facility' and 'Take Away Food Premises' Section 1 (as of right land uses).</p>	<p>b) Support.</p> <p>c) Partial support.</p>	<p>b) Support the ability for a small office to support the light industrial function of the area, however floor space caps are necessary to ensure the use remains ancillary in nature.</p> <p>c) Support for indoor recreation facility. Do not support making 'take away food premises' as of right due to the retail nature risk of eroding the industrial function of area over time.</p>
7	34.02	<p>Commercial 2 Zone</p> <p>(Provides for offices, some manufacturing and industries and bulky goods. Residential development is prohibited).</p>	<p>Review the Commercial 2 Zone having regard to the following:</p> <p>a) Make 'Convenience Restaurant' a Section 1 (as of right) land use.</p> <p>b) Make 'Manufacturing Sales' a Section 1 (as of right) land use to support the establishment of 'small makers' and creative industries.</p>	<p>a) Qualified support.</p> <p>b) Support in principle.</p>	<p>a) Must include a floor space cap for convenience restaurant - to avoid the proliferation of fast-food restaurants with large floor areas eroding employment land.</p> <p>b) The <i>Council Plan 2017-27</i> highlights Council's vision for a City that is prosperous with connected and growing businesses (Outcome 5.2). These outcomes will be achieved in the short-term by fostering the knowledge economy and our creative industry clusters.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
8	35	All rural zones	Review the rural zones.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
9	35.07	Farming Zone	Review the Farming Zone	Not applicable to Port Phillip.	Not applicable to Port Phillip.
10	37.03	Urban Floodway Zone	Review the Urban Floodway Zone.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
11	37.07	Urban Growth Zone	Review the Urban Growth Zone.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
OVERLAYS					
12	40	All overlays	<p>Review all overlays having regard to the following:</p> <p>a) Review whether the distinction of overlays controlling development, as opposed to use, remains valid, and provide updated guidance, acknowledging that some overlays already control use (AEO, SRO, DPO).</p>	a) Do not support.	a) Port Phillip thinks that it is clearer and more transparent to contain use controls to zones wherever possible. While some overlays have a role in managing use, or guiding discretion they typically do not control it outright (i.e. EAO restricts uses until land is remediated, but it does not prohibit it).

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>b) Review the approach of using overlays to identify buffers, such as the Environmental Significance Overlay, and examine how the VPP can transparently and consistently identify and protect significant sites requiring buffers (for example: landfills, treatment plants, water supply catchments and quarries)</p> <p>c) Create consistency in use of terms where a common meaning applies (such as the phrases 'generally in accordance with', 'generally consistent with' and 'in accordance with') and in the use of common assessment techniques (e.g. Determining tree protection zones)</p> <p>d) Clarify that if a permit is not required within the head provision, then the provisions of the schedule to that control do not apply. This may require holistic review of how the VPP reacts with local provisions.</p>	<p>b) Support in principle.</p> <p>c) Support.</p> <p>d) Support.</p>	<p>b) Agree this should be a priority. A spatial component would need to remain for transparency.</p> <p>c) Using consistent phrasing throughout the scheme will aid interpretation. It is noted that there are many techniques to determine a tree protection zone and often the approach needs to vary depending on the type of species.</p> <p>d) This would reduce confusion experienced within by non-planners and the community. DELWP should take care to ensure there are no unintended consequences.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
13	42	Environmental and landscape overlays	<p>Review all environmental and landscape overlays having regard to the following:</p> <p>a) Amend the head provision to relocate the 'Table of exemptions' to Clause 62.02- 3 and insert the following words "No permit is required to remove, destroy or lop vegetation to the minimum extent necessary if any of the exemptions listed in the Table to Clause 62.02- 3 apply".</p> <p>b) Increase opportunities for permit exemptions (such as associated with a single dwelling) by ensuring permit triggers are linked to the purpose of the control.</p> <p>c) Ensure consistency across all schedules.</p>	<p>a) Support.</p> <p>b) Qualified support.</p> <p>c) Qualified support.</p>	<p>a) Locating the provision requirements in one place will aid useability.</p> <p>b) Any changes to permit discretion must be undertaken in consultation with local government.</p> <p>c) Support provided there is no change to existing schedule local content.</p>
14	43.01	Heritage Overlay	<p>Review the Heritage Overlay having regard to the following:</p> <p>a) Review the proposed reforms to the overlay as proposed by the Heritage Provisions Advisory Committee, such as clarifying whether the overlay recognises</p>	<p>a) Support in principle.</p>	<p>a) The Advisory Committee made many good recommendations, which should be revisited. Given that a decade has passed, it is considered that these recommendations should be reviewed.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>precinct-wide or site specific values.</p> <p>b) Create consistency in use of words where a common meaning applies, such as 'cultural significance', 'heritage value', 'heritage interest' and so on.</p> <p>c) Create a new permit exemption for minor buildings and works, which do not affect heritage values, such as small verandas and pergolas and maintenance and the minor upgrade of railway infrastructure.</p>	<p>b) Support.</p> <p>c) Support in principle.</p>	<p>One of the key issues with the Heritage Overlay since the introduction of the VPPs has been the lack of a text schedule, as there is for the DDO and other overlays. The existing HO schedule is very limited in its scope and a key issue is that any variations such as permit exemptions must form part of an incorporated document rather than being integrated into the schedule, whilst local policies are also used.</p> <p>Introduction of a text schedule would provide an opportunity for local permit exemptions (such as external paint colours, or front fencing), variations to State policy, or specific controls that applied to reflect local conditions or heritage places with unique characteristics.</p> <p>b) One of the key issues with local policies across the board is the lack of consistency in this regard – although many are very similar, subtle variations in meaning of terms such as 'Significant', 'Contributory' are inconsistent with VPP principles and only serve to create confusion and uncertainty (as well as poor outcomes in some instances).</p> <p>c) As part of our current scheme audit, Port Phillip is investigating the use of an incorporated plan to establish planning permit exemptions for properties in the Heritage Overlay for low-impact buildings and works. However these could be incorporated into a new text-based schedule and made consistent throughout the State. Caution should be exercised, and consultation with Local Government should</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>Consider limiting exemptions to non-contributory buildings.</p> <p>d) Review the use of exemptions for certain minor buildings and works, such as those cited in Yarra and Moreland Council incorporated documents, to determine if these exemptions can be introduced more broadly across Victoria and made more transparent and accessible.</p>	d) Support.	<p>be undertaken to determine appropriate permit exemptions that are appropriate in all circumstances.</p> <p>d) See response to c) above.</p>
15	43.01	Development Plan Overlay	<p>Review the Development Plan Overlay having regard to the following:</p> <p>a) Amend the exemption from notice and review provision to remove the 'catch 22' provision.</p> <p>Under the provision, an application which is generally in accordance with the development plan is exempt from notice and appeal rights. This implies that an application which is not generally in accordance with the development plan is not exempt. However, the Responsible Authority cannot grant a permit unless it is generally in accordance with the Development Plan.</p>	No objection.	Support policy neutral change to remove confusion.

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
16	43.05	Neighbourhood Character Overlay	Review the Neighbourhood Character Overlay to examine the role and function of the Overlay in the context of the new Neighbourhood Residential Zone, and other VPP tools.	Do not support.	<p>Do not support the removal of the Neighbourhood Character Overlay. Disagree that the Neighbourhood Residential Zone provides for all neighbourhood character considerations.</p> <p>For example, Port Phillip's NCO is applied to areas which may not all be within the NRZ (dependant on Minister's approval of Amendment C123).</p> <p>Retaining the NCO provides for the flexibility for Council to address the diversity in areas of neighbourhood character.</p> <p>It is likely however, that some NCO schedules could be removed following introduction of the NRZ, and Council will consider that in any future review of neighbourhood character.</p>
17	44	Land management overlays	Review all land management overlays having regard to review the role and function of the three inundation related overlays (Land Subject to Inundation Overlay, Special Building Overlay, and Floodway Overlay, together with the Urban Floodway Zone) to understand if amalgamations are possible and the distinctions between the overlays and their objectives, are made clearer.	Support in principle.	Minimising the complexity of planning schemes is supported in principle. Reviewing the land management overlays is supported subject to further consultation.
18	44.01	Erosion Management Overlay	Review the Erosion Management Overlay.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
19	44.02	Salinity Management Overlay	Review the Salinity Management Overlay.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
20	44.03	Floodway Overlay	Review the Floodway Overlay.	Not applicable to Port Phillip.	Not applicable to Port Phillip.

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
21	44.04	Land Subject to Inundation Overlay	<p>Review the Land Subject to Inundation Overlay having regard to the following:</p> <p>a) Update the purpose of the overlay from referring to a 1-in-100-year flood, to “flooding from a waterway in a 1% Annual Exceedance Probability (AEP) flood event”.</p> <p>b) Update the purpose of the overlay to include the words “to provide for the protection of drainage assets”.</p> <p>c) Ensure permit triggers are linked to the purpose of the overlay.</p> <p>d) Increase the opportunities for permit exemptions, such as developments not impeding water flow.</p>	<p>a) Support in-principle.</p> <p>b) No objection.</p> <p>c) Support in principle.</p> <p>d) Support in principle.</p>	<p><i>Note: The Port Phillip Planning Scheme does not currently utilise this overlay, however we may need to use it to address sea level rise. Any review should be mindful of strategic work being undertaken by the MAV Port Phillip Bay Coastal Planning Project on an appropriate response to sea level rise.</i></p> <p>a) The proposed wording is confusing and too technical but agree the current wording is also misleading. A better approach would be to say “a 1% chance of occurring in any given year”, or similar for further clarity.</p> <p>b) No comment.</p> <p>c) Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p> <p>d) Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p>

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Appendix 1: Response to proposals for specific provisions

ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>e) Allow greater flexibility by expanding the floor space allowable for a building extension before a permit is triggered for buildings and works.</p> <p>f) Examine whether finished floor level height above flood level should be a planning scheme requirement or a self / code assess mechanism, or a matter for the Building Act.</p>	<p>e) Support in principle.</p> <p>f) Do not support.</p>	<p>e) Unclear what this is referring to as there is no current exemption for building extensions in the head provision. Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p> <p>f) Assessment of raised floor levels is an important urban design outcome that should be considered at the planning stage.</p>
22	44.05	Special Building Overlay	<p>Review the Special Building Overlay having regard to the following:</p> <p>a) Revise the name of the overlay to better reflect its purpose.</p> <p>b) Update the purpose of the overlay to include “to provide for the protection of drainage assets”, and remove reference to Clauses 33 and 35 of the SEPP (Waters of Victoria) from the purpose of the overlay.</p>	<p>a) Support.</p> <p>b) No objection.</p>	<p>a) The name of the overlay should be revised for greater transparency. Prospective purchasers should be aware of the flood risks upon purchasing property, however caution should be exercised to ensure the name of the schedule does not unnecessarily alarm community members.</p> <p>b) No comment.</p>

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ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			<p>c) Make buildings and works (including dwelling extensions and new dwellings) permit exempt where minimum flood levels are met and the Building Act applies.</p> <p>d) Increase opportunities for permit exemptions and ensure permit triggers are linked to the purpose of the overlay.</p> <p>e) Amend the wording of the overlay so that a planning permit application that is subject to flooding from councils' overland flow paths (less than 60ha catchments) can be assessed solely by council and do not require a referral to Melbourne Water</p> <p>f) Consider the greater use of VicSmart where the Special Building Overlay is the only trigger.</p>	<p>c) Do not support.</p> <p>d) Qualified support.</p> <p>e) Support in principle.</p> <p>f) Do not support.</p>	<p>c) Should not exempt new dwellings for all SBO areas (this should be scheduled in):</p> <ul style="list-style-type: none"> • Raised floor levels are not the only way to address flood risk – e.g. increased permeability, WSUD, reduced intensity, siting of buildings, layout for safety. • Other types of buildings and works can also affect flood flow paths. • Need to account for flood storage (which is reduced by filling to raise land above flood levels) for increasingly dense urban environments. <p>d) Unclear what this is referring to as there is no current exemption for building extensions in the head provision. Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p> <p>e) Subject to further consultation and further consideration of the proposed 60ha qualifier is required. Port Phillips Special Building Overlay - Schedule 2 is an example of where applications are assessed by Council only.</p> <p>f) There are many ways to address freeboard issues, including local policy. As a result, the use of VicSmart here is not supported.</p>

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ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
			g) Ensure schedules are uniform and consolidated across Victoria.	g) Support in principle.	g) This requires further consultation to ensure any changes to schedules are policy neutral.
23	45.02	Airport Environs Overlay	Review the Airport Environs Overlay.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
24	45.07	City Link Project Overlay	Review the City Link Project Overlay.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
PARTICULAR PROVISIONS					
25	52.03	Specific Sites and Exclusions	Review Specific Sites and Exclusions having regard to the following: a) Remove outdated provisions b) Establish clear rules around when it can be used to avoid overuse c) Establish the practicality of mapping all items within a new Specific Provisions Overlay to improve transparency and public awareness.	a) Support. b) Support in principle. c) Support in principle.	a) Reducing unnecessary scheme content will aid useability. b) The rules should be provided as guidelines only. c) Support as this will make these outcomes more transparent to the community.
26	52.06	Car Parking	Review Car Parking having regard to the following: a) Review car parking rates in Table 1 in the context of transport mode shifts, lifestyle and technology changes and densification, and provide rates for those land uses not listed	a) Strongly support.	a) Council's recent Audit of the planning scheme found that in most cases, Council and VCAT supported a waiver of minimum car parking standards.

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			<p>b) Provide car parking exemption in selected zones (commercial zones, Mixed Use Zone, and industrial zones) for Section 1 uses in existing buildings where floor area is not increased (for example change of use applications)</p> <p>c) Assess the recommendations not yet implemented from the Car Parking Provisions Advisory Committee Final Report (2011) including the recommendation to make a Clause 52.06 application exempt from notice and review in all circumstances.</p>	<p>b) Qualified support.</p> <p>c) Partial support.</p>	<p>A recent study commissioned by Council collected survey data to examine car parking supply and demand and travel mode choice at a number of high-density buildings across the municipality. The study found there was an average on-site parking occupancy of 73% across the surveyed sites. This indicates that the private car parking provided within buildings is not fully utilised and that there may be scope to lower car parking rates in new development.</p> <p>In some areas Port Phillip experiences considerable pressure with on-street parking. Consider the ability to retain existing standards (higher rate) for areas where there are demonstrable on-street parking issues.</p> <p>b) An increase in parking demand may result from the change of use. Simplifying planning processes must not come at the expense of achieving good planning outcomes. Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p> <p>c) Agree that the outstanding recommendations of the Committee's report should be considered. However a focus on simplifying planning processes must not come at the expense of reducing appropriate third party involvement in the planning process. A proposal to remove third party rights from the planning process should be subject to further consultation with Local Government.</p>

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ID No.	Clause No.	Name	Proposed Modification	Port Phillip Response	Rationale for Response
					<p><u>Other</u></p> <p>In addition to the above, Clause 52.06 – Car Parking should clarify if it is to apply to an extension to one dwelling on a lot. The current provisions are confusing. The first dot point states that Clause 52.06 does not apply to the extension of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone. However the very next dot point states that Clause 52.06 does apply if a permit is required to construct or extend one dwelling on a lot (see below).</p> <p>Port Phillip commonly receive applications for:</p> <ul style="list-style-type: none"> • first floor level additions on lots less than 500m² • first floor addition on lots greater than 500m² affected by a heritage overlay. <p>In both these scenarios the number of bedrooms are typically increased from 2 to 3 or more. <i>Clause 52.06 applies to:</i></p> <ul style="list-style-type: none"> • a new use; or • an increase in the floor area or site area of an existing use; or • an increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use. <p><i>Clause 52.06 does not apply to:</i></p> <ul style="list-style-type: none"> • the extension of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone; or • the construction and use of one dwelling on a lot in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone or Township Zone

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					<i>unless the zone or a schedule to the zone specifies that a permit is required to construct or extend one dwelling on a lot.</i>
27	52.08	Earth and Energy Resources Industry	Review Earth and Energy Resources Industry Provision.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
28	52.10	Uses with Adverse Amenity Potential	Review Uses with Adverse Amenity Potential having regard to the following: a) Review buffer distances taking into account the Environmental Protection Authority's Recommended Separation Distances for Industrial Residual Air Emissions – Guideline (2013) b) Review and clarify the clause's application in 'reverse amenity' matters.	a) Support. b) Support.	a) Agree that buffer distances should be updated in accordance with up-to-date guidelines. b) Clarifying the clause's application in reverse situations will assist with residential encroachment issues.
29	52.12	Service Stations	Review Service Stations Provision to ensure the provision reflects current practices and modern service station designs, including reviewing the site area and crossover dimensions.	No objection.	Agree that the provision should be updated to reflect current practice.
30	52.13	Car Wash	Review Car Wash Provision to ensure the provision reflects current practices and modern car wash design, including reviewing crossover dimensions.	No objection.	Agree that the provision should be updated to reflect current practise.

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31	52.14	Motor Vehicle, Boat or Caravan Sales	Review Motor Vehicle, Boat or Caravan Sales Provision with a view to either removing or updating.	No objection.	Agree that the provision should be reviewed with a view to removing or updating in line with best practice.
32	52.19	Telecommunications Facility	Review Telecommunications Facility having regard to the following: a) Update the Code of Practice for Telecommunications Facilities in Victoria (2004) (an incorporated document in the VPP) and the particular provisions to recognise advances in equipment technology. b) Clarify permit triggers and exemptions without requiring cross-referencing to another document.	a) No objection. b) Support.	a) Agree that the provision should be updated to reflect the current code of practice, and to recognise advances in equipment technology. b) Removing cross-referencing in the planning scheme is supported, as this will aid useability and reduce complexity.
33	52.27	Licensed Premises	Review Licensed Premises having regard to the following: a) Review the role and function of the planning system in licensed premises and explore opportunities to minimise conflict and overlap with the Victorian Commission for Gambling and Liquor Regulation (VCGLR) licencing process.	a) Support a review only.	a) A review of the function of the two processes is supported in principle, to ensure they do not conflict and are achieving the objectives of each Act. However, Council does not support removing the role of planning in considering licensed premises. Planning has a legitimate role in considering spatial issues, cumulative impact, amenity impacts and land use. This includes the identification preferred (or discouraged) types of licensed premises in particular areas, to ensure they support the role and function of the activity centre, and direct certain types of licensed premises to entertainment

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					<p>precincts.</p> <p>Relying on the VCGLR for assessment at State level would remove the consideration of local issues and impacts to the local community currently undertaken by Councils through the planning permit process. Local Government is best placed to consider local issues.</p> <p>However, Council does support a review to explore and clarify the role of the social impacts of licensed premises. Although planning has an obligation to consider significant social effects under the <i>Planning and Environment Act 1987</i> (s.60(1)), Council's discretion is currently limited in Clause 52.27 (Licensed Premises) to considering amenity impacts.</p> <p>This has resulted in inconsistent decisions by VCAT in regards to social considerations. In <i>Morraine Nominees Pty Ltd v Port Phillip CC</i>¹, Council submitted that the sale of liquor at a shop on Fitzroy Street would be inappropriately located having regard to its relative proximity to places inhabited or frequented by vulnerable community members. VCAT set aside Council's decision, deciding that its location in the St Kilda Major Activity Centre was appropriate. However in <i>Lahdo v Port Phillip CC</i>², Council had its decision affirmed when it refused a proposal for a bottle shop due its more evident proximity (across the road) to a community crisis centre.</p>

¹ *Morraine Nominees Pty Ltd v Port Phillip CC* [17 May 2017] VCAT 698

² *Lahdo v Port Phillip CC* [2017] VCAT 868 (16 June 2017)

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			<p>b) Make premises in commercial zones exempt from the need for a planning permit, subject to certain conditions, and relying on the Victorian Commission for Gambling and Liquor Regulation licensing process.</p>	<p>b) Do not support.</p>	<p>Port Phillip also supports the role of considering broader social harm to the community from packaged liquor sales through planning.</p> <p>b) Exempting licensed premises in commercial zones is not supported as this would reduce the opportunity for Council to ensure there will be limited amenity impacts in our increasingly mixed-use activity centres (i.e. increasing number of dwellings).</p> <p>Port Phillip's recent planning scheme review found Council has consistently high levels of complaints and compliance investigations relating to licensed premises (averaging 85 complaints a year). This includes disruption to retail trade. These are predominantly located within our commercial zones. We are investigating developing a licensed premises policy to provide further guidance on permit discretions.</p> <p>Further, retaining permit discretion will also assist in ensuring the balance of retail mix within our activity centres, to ensure they remain vibrant. Port Phillip's Fitzroy Street has an oversupply of entertainment uses – with 60% of floor space comprising food catering and non-retail entertainment uses. This leads to wider precinct vitality, social and amenity problems, and contributes to a high shop vacancy rate of 15.5%. Hotels, busy licensed restaurants and bars are already Section 1 uses in the Commercial 1 Zone. Permit discretion for these types of premises – whether it be by a permit trigger for land use or the types of liquor licence regulation (and their cumulative impact) should not be removed.</p>

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			c) Include and clarify common application requirements, such as 'cumulative impact statements'	c) Support.	c) The cumulative impact of licensed premises requires further analysis and clarification with a more nuanced approach. Particularly around the relationship of different types of licensed premises, packaged liquor and the impact of packaged liquor. Recent research indicates is more important to consider the total floor area size of all types of licensed premises (including packaged liquor outlets) rather than just the number of premises in an area.
34	52.28	Gaming	Review the Gaming Provision to minimise conflict and overlap with the Victorian Commission for Gambling and Liquor Regulation (VCGLR) licensing process	Do not support.	<p>A review of the role of the planning system in addressing gaming machines is not supported. The consideration of gaming machines in planning is a well-established planning consideration that seeks to reduce harm in the local community.</p> <p>Gaming should not be removed from consideration through the planning system as there is a fundamental difference between considerations of VCGLR and planning applications.</p> <p>VCGLR limits consideration to the 'no net-detriment' test under the <i>Gambling Regulation Act 2003</i> which is a very broad assessment. Whereas relevant planning considerations include ensuring the social and economic effects of the location of the proposed gaming machines are considered under the planning scheme (harm minimisation spatial considerations), along with any significant economic and social effects.</p> <p>This difference can be further demonstrated by <i>Melbourne CC v Kingfish Victoria Pty Ltd & Anor</i> where the Tribunal upheld gaming approval but refused planning approval. The Tribunal member found that while the 'no net detriment' test under the Gambling Act was met, the planning assessment requires a location-specific assessment and</p>

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					<p>the proposal would have an unacceptable planning outcome in this case.</p> <p>Further, relying on the VCGLR for assessment at State level would remove the consideration of local issues and impacts to the local community currently undertaken by Councils through the planning permit process. Local Government is best placed to consider local issues.</p>
35	52.29	Land Adjacent to a Road Zone Category 1 or a Public Acquisition Overlay for a Category 1 Road	<p>Review Land Adjacent to a Road Zone Category 1 or a Public Acquisition Overlay for a Category 1 Road having regard to the following:</p> <p>a) Clarify permit triggers and application requirements, in particular whether an alteration to access can refer to a change in use as well as a physical alteration</p> <p>b) Include a definition for the term 'create or alter access'</p>	<p>a) Strongly support.</p> <p>b) Strongly support.</p>	<p>a) Better clarification needed, see response to b) below.</p> <p>b) Better clarification is also needed on what exactly 'create or alter access to a road in a Road Zone Category' means under Clause 52.29.</p> <p>The common interpretation was some time that this only applied when physical changes were made to the existing vehicle crossover or a new vehicle crossover was proposed. However, the VCAT decision <i>Peninsula Blue Developments Pty Ltd v Frankston CC (Revised) (Red Dot) [2015] VCAT 571 (28 April 2015)</i> sets out that Clause 52.29 would also apply to a change of land use which would see an increase in the frequency and size of vehicles accessing the arterial road' at existing access points.</p>

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			<p>c) Amend the provision to provide additional permit exemptions.</p> <p>d) Explore the possibility of using standard VicRoads conditions to avoid referral</p> <p>e) Make access to a service road (other than an excluded service road) exempt from referral to VicRoads</p> <p>f) Make applications under this clause exempt from normal notice and review provisions.</p>	<p>c) Support in principle.</p> <p>d) No objection.</p> <p>e) No objection.</p> <p>f) Qualified support.</p>	<p>c) Any future proposal to remove permit discretion should be subject to consultation with local government once a draft is proposed.</p> <p>d) Further consultation required with VicRoads, as there may be instances where they need to consider a more nuanced outcome that warrants a referral and merits based assessment.</p> <p>e) Further consultation required with VicRoads.</p> <p>f) A proposal to remove third party rights from the planning process should be subject to consultation with local government once a draft is proposed.</p>
36	52.34	Bicycle Facilities	<p>Review Bicycle Facilities having regard to the following:</p> <p>a) Update bicycle rates to reflect environmental sustainability goals, the needs of modern businesses and increased popularity of cycling as a transport mode, particularly with respect to offices.</p>	<p>a) Strongly support.</p>	<p>a) Port Phillip considers that the minimum bicycle parking rates per dwelling (at 1 for every 5 dwellings) is too low to encourage sustainable transport options. A recent post-occupancy survey carried out by Council of 13 high-density buildings across the municipality found that bicycle parking rates vary widely, but are generally underprovided for in new developments. One building had a formal supply of 30 bicycle parks and an observed demand of 60 bicycle parks.</p> <p>At present, the only way at present for Council to vary bicycle parking rates is through applying the Activity Centre Zone, however this zone should not be used solely to increase bicycle parking provisions.</p>

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			b) Provide rates for more types of development.	b) Strongly support.	<p>Port Phillip is currently preparing its Integrated Transport Strategy. Updated bicycle rates will be considered as an outcome of this strategy.</p> <p>b) Strongly support providing more sustainable bicycle parking rates that are applicable to more types of development.</p>
37	52.37	Post Boxes and Dry Stone Walls	Review Post Boxes and Dry Stone Walls Provision to examine the feasibility of removing the provision, by incorporating it within the Heritage Overlay.	Support.	<p>Dry Stone Walls are not relevant for Port Phillip. However in relation to Post Boxes, there may be merit in specifically identifying them as part of a 'Serial listing'.</p> <p>There should be a coordinated metropolitan-wide study that:</p> <ul style="list-style-type: none"> • Identifies all extant historic post boxes • Identifies those that are of individual significance and those that are Contributory within a precinct • (it may be that they are all of equal significance). • Prepares a statement of significance • Maps them (and decides whether if within a precinct they should be mapped and listed separately or just included within the precinct HO – i.e. not specifically shown) <p>A similar approach could be taken to the survey and inclusion of various historic tram shelters that resulted in most of them being included on the VHR.</p>
38	54, 55, 56 and 58	Residential development and subdivision provisions	Review Clause 54, 55, 56 and 58 clarify the relationship between the standards and objectives, and particularly whether full compliance with the standard means that the objective is also met.	Qualified support.	<p>Strongly support removing ambiguity from the provisions. However, Port Phillip has reservations about moving toward a deemed-to-comply approach.</p> <p>This would require careful consideration as ResCode objectives considers qualitative factors. All standards must be reviewed to determine if full compliance with the standards can still result in an</p>

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					outcome that doesn't meet the spirit of the objective, particularly with the new suite of apartment standards that haven't been well tested yet. Any change here should be subject to consultation with local government once a draft is proposed.
39	57	Metropolitan Green Wedge Land	Review Metropolitan Green Wedge Land Provision.	Not applicable to Port Phillip.	Not applicable to Port Phillip.
GENERAL PROVISIONS					
40	60	General Provisions	Review General Provisions to investigate consolidating application requirements into a single clause similar to Clause 66 (Referrals and Notice), review all existing requirements, and add common application requirements (such as basic plans) to definitions to reduce duplication of description.	Do not support.	Customised application requirements should remain with the relevant provisions. Relocating them elsewhere in the scheme does not aid usability.
41	65	Decision Guidelines	Review Decision Guidelines to consolidate under Clause 65, similar to Clause 66 Referral and Notice provisions.	Do not support.	Customised decision guidelines should be retained with the relevant provision. Provisions require customised decision guidelines as the considerations vary depending on the policy issues. Relocating them elsewhere in the scheme does not aid usability.
42	66	Referral and Notice	Review Referral and Notice Provisions having regard to the following: a) Remove references to seeking the views and comments of referral authorities throughout the VPP and use formal processes of Clause 66 instead	a, b, c & d) Support in principle.	Requires consultation on removal of references to seeking views or comments as some may need to become more statutory notice requirements.

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			<ul style="list-style-type: none"> b) Review the classification of referral agencies as ‘recommending’ authorities or ‘determining’ authorities c) Encourage more standard agreements with agencies to reduce the need for referral for minor and low risk matters d) Make the Department of Economic Development, Jobs, Transport and Resources a referral authority for land near existing quarries. 		
DEFINITIONS					
43	72	General Terms	Review General Terms to investigate the inclusion of: <ul style="list-style-type: none"> a) ‘Outbuildings normal to a dwelling’ b) ‘Sensitive uses’. 	Support in principle.	Agree that definition for these terms would be beneficial in the planning scheme.
44	74	Land Use Terms	Review all VPP land use terms and definitions, and associated treatment in the land use tables, having regard to the following objectives: <ul style="list-style-type: none"> a) Reduce the number of terms b) Remove obsolete uses c) Separate out common land uses 	Strongly support.	Updating the land use terms and definitions is long overdue, and should be prioritised in the first stage of reforms. This should look to enable more sophisticated land use planning and enable Councils to respond to contemporary planning issues. It should also look to remove current ambiguity, which can significantly influence the outcome of permit applications.

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			<p>only when necessary to be treated differently in zone tables</p> <p>d) Be less prescriptive by removing overly specific terms</p> <p>e) Broaden terms and definitions to account for rapidly shifting industries and lifestyles</p> <p>f) Use every day and plain-English terms that the community readily understands</p> <p>g) Modernise definitions including consideration of emerging social, economic and technological trends</p> <p>h) Provide definitions for undefined terms, excluding those where there is an appropriate ordinary dictionary meaning or definition in the Act.</p> <p>Review Land Use Terms to investigate <u>adding</u> the following (only where necessary and in recognition of the objectives above):</p> <p>'Rural workers accommodation', 'Carbon sequestration', 'Contractor's</p>		<p>Suggest this should also include adding a definition for 'Lane', as referred to in 43.01-1. Nowhere is "lane" defined in Planning, Building or Traffic legislation, and there is argument about when a "street" is a "lane" and when is a "lane" a "street".</p>

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			<p>Depot', 'Holiday dwelling', 'Café', 'Music and arts festival', 'Maker', 'Community gardens', 'Storage facility' and 'Animal day care'.</p> <p>Review Land Use Terms to investigate <u>revising</u> the following:</p> <p>'Tavern', 'Airport' and 'Airfield', 'Primary produce sales', 'Utility installation', 'Minor utility installation', 'Place of worship', 'Anemometer', 'Winery', 'Shop', 'Food and drink premises', 'Leisure and recreation', 'Animal keeping', 'Brothel', 'Renewable energy facility', 'Heliport', 'Caretakers residence', 'Community market', 'Trash and treasure market', 'Dwelling', 'Cinema based entertainment facility', 'Warehouse', 'Store', 'Gambling premises', 'Gaming premises', 'Convenience restaurant', 'Art and craft centre', 'Art gallery', 'Amusement parlour', 'Pleasure park', 'Retirement village' and 'Residential village', 'Restricted retail facility', 'Group accommodation', 'Industry', 'Medical centre', 'Agriculture', 'Bed and breakfast', 'Night club', 'Hotel', 'Retail', 'Accommodation', 'Place of assembly', 'Restaurant', 'Earth and energy</p>		

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			resources' and 'Stone extraction', 'Materials recycling', and 'Transfer Stations'. Review Land Use Terms to investigate removing terms within the land use table that do not have definitions as is consistent with Clause 71.		
45	74	Land Use Terms	Review Land Use Terms to investigate how the VPP treats commercial battery storage facilities both as stand-alone facilities and those collocated with energy generation projects, including whether new or revised definitions are required and in which zones they are appropriate.	Support.	There is merit in investigating how commercial storage facilities are dealt with in the VPP given the number of such facilities are likely to increase in the future.
46	75	Nesting Diagrams	Review Nesting Diagrams to consider shifting 'Cinema Based Entertainment Facility' from un-nested to within the 'Place of Assembly' group.	Support.	This should be done as part of a full review of the Nesting Diagrams following any revisions made to the land use definitions and terms.
INCORPORATED DOCUMENTS					
47	81	Incorporated Documents	Review Incorporated Documents having regard to the following: a) Examine whether a standard template can be adopted to ensure consistency across documents. b) Address the use of Australian Standards (fee payable for access), moving away from incorporating documents that are	a) Do not support. b) Support a way of making them free to access.	a) Do not support a limitation to content flexibility. Incorporated documents are required to achieve a broad range of planning outcomes. b) Providing free access to required planning documents will aid transparency.

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			<p>not free to access.</p> <p>c) Review the usefulness of each incorporated document including whether extracts should be taken from particularly large documents.</p> <p>d) Remove obsolete and outdated documents.</p> <p>e) Replace document references with updated versions where available.</p>	<p>c) Support.</p> <p>d) Support.</p> <p>e) Support.</p>	<p>c) Reducing unnecessary content from the planning scheme is supported to reduce complexity. This should be undertaken by local government as part of regular planning scheme reviews.</p> <p>d) Out-dated content should be removed from planning schemes to reduce complexity. This should be undertaken by local government as part of regular planning scheme reviews.</p> <p>e) Planning schemes should be kept up-to-date to ensure transparency.</p>
OTHER					
48	N/A	Planning Practice Notes	<p>Review Planning Practice Notes having regard to the following:</p> <p>a) Repackaging the extent of practice notes to make them easier to navigate. This includes introducing a new VPP manual to support planning authorities (and repositioning appropriate practice notes focussed on implementing and writing provisions into the manual).</p> <p>b) Create a new Practice Note addressing advertising sign</p>	<p>a) Qualified support.</p> <p>b) Support.</p>	<p>a) Port Phillip supports the development of a VPP manual that repackages existing practice notes. However, this should be presented as a guideline rather than as a rule book so that application of particular elements can be assessed and implemented on their merits.</p> <p>b) A practice note addressing advertising sign provisions would be beneficial.</p>

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			<p>provisions, in particular outlining a mechanism by which councils can address concerns about the safety impact of signs on or near state-controlled roads where VicRoads is not a referral authority.</p> <p>c) Update Planning Practice Note 59 – The Role of Mandatory Provisions in Planning Schemes - to reflect the circumstances when mandatory provisions should be applied.</p>	c) Support.	<p>c) The Minister for Planning has refused numerous requests of Council for mandatory controls where justification in support of the mandatory nature of the controls has been provided. The practice note should provide guidance on:</p> <ul style="list-style-type: none"> • The level of analysis is required for mandatory controls in general. • The type of circumstances / analysis would justify side setbacks and separation distances, etc. • Possibly guide the type of controls (e.g. overall height, street wall height, front setback, side / rear setbacks, tower separation) appropriate for different circumstances – e.g. inner city locations or within major activity centres VS along main roads or smaller activity centres with heritage character.
49	N/A	Technology and the availability of documents	<p>Review planning systems having regard to the following:</p> <p>a) Review processes for accessing planning applications and update Planning Practice Note 74 - Availability of planning documents - to encourage councils to make documents relating to permit applications available freely online via their</p>	a), b) Support.	a), b) Support an increased access to planning information by the community.

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			<p>website.</p> <p>b) Provide a plain text version of planning schemes on 'Planning Schemes Online' to allow convenient 'copy and paste' into reports, or deliver through HTML using PSIMS.</p>		
50	N/A	Section 173 agreements	<p>Review Section 173 agreements having regard to the following:</p> <p>a) Their role in the planning system and whether they are overused including in local schedules.</p> <p>b) The benefits of creating a standard agreement template that would only require minimal amendments for most purposes.</p>	Do not support.	<p>Port Phillip does not support a reduction in the content flexibility of Section 173 agreements.</p> <p>Section 173 agreements are a voluntary agreement utilised to enable a broad range of planning outcomes. For example, commonly used s173 agreements by Port Phillip impose limitations on occupation for caretakers' houses, windows on boundaries, restricting the subdivision of secondary dwellings / granny flats and administering car share schemes.</p>