

# **VICTORIA PLANNING PROVISIONS**

## **AMENDMENT VC148**

### **EXPLANATORY REPORT**

#### **Who is the Planning Authority?**

This amendment has been prepared by the Minister for Planning.

The Minister for Planning is the planning authority for this amendment.

#### **What the Amendment does**

The amendment introduces changes to the *Victoria Planning Provisions* (VPP) and all planning schemes arising from the Victorian Government's Smart Planning program. The program aims to simplify and modernise Victoria's planning policy and rules to make planning more efficient, accessible and transparent.

This amendment makes the following changes:

#### ***Integrated Planning Policy Framework***

- Deletes the State Planning Policy Framework (SPPF) and replaces it with a new integrated Planning Policy Framework (PPF) in Clauses 10 to 19.

#### ***A simpler VPP structure with VicSmart built in***

- Deletes Clause 1.0 (Preliminary) and Clause 2.0 (User Guide). The User Guide will continue to be published on the Department of Environment, Land, Water and Planning website. The planning scheme purposes from Clause 1.0 are moved to new Clause 01.
- Inserts new Clause 00 (Purpose and Vision) and Clause 01 (Purposes of this planning scheme).
- Moves the operational provisions for the Local Planning Policy Framework (LPPF) to new Clauses 23.02 and 23.03 and inserts a new Clause 23.01 to explain the relationship between the LPPF and the PPF.
- Organises particular provisions (currently contained in Clauses 52, 53 and 57) into three new categories:
  - Provisions that apply only to a specified area (Clause 51).
  - Provisions that require, enable or exempt a permit (Clause 52).
  - General requirements and performance standards (Clause 53).
- Makes consequential changes to the schedules of applicable particular provisions in planning schemes, including inserting new schedules.
- Deletes the VicSmart provisions in Clauses 90 to 95 and:
  - relocates the tables of classes of State VicSmart applications to the applicable zones, overlays and particular provisions
  - relocates local VicSmart applications and the State and local VicSmart information requirements and decision guidelines to a new Clause 59 (VicSmart applications and requirements)
  - relocates the VicSmart operational provisions to new Clause 71.06.
- Inserts a new section, 'Operational provisions' (Clauses 70 to 74) that consolidates operational, administrative and other provisions as follows:

- New Clause 71 contains operational provisions for the Municipal Planning Strategy (MPS) and PPF, zones, overlays, particular provisions and VicSmart.
- New Clause 72 contains the administrative provisions, including the list of documents incorporated in the planning scheme and background documents (a new provision).
- New Clause 73 includes the meaning of terms, including general, sign and land use terms, and nesting diagrams.
- New Clause 74 includes provisions to be used in the future transition of LPPFs to the MPS and PPF.
- Makes miscellaneous amendments to provisions, including schedules, to:
  - update references to the SPPF and LPPF to the new MPS and PPF (for example in the purposes and decision guidelines of the zones, overlays and other provisions)
  - update provisions (for example, references to clause numbers) as a result of the restructure and reorganising of provisions
  - correct errors and improve drafting of provisions.

### ***Improvements to the structure and operation of specific clauses***

- Amends the following clauses to enable their schedules to specify additional matters including purposes, objectives, application requirements or decision guidelines: Clause 37.03 (Urban Floodway Zone); Clause 42.01 (Environmental Significance Overlay); Clause 42.02 (Vegetation Protection Overlay); Clause 42.03 (Significant Landscape Overlay); Clause 43.01 (Heritage Overlay); Clause 43.02 (Design and Development Overlay); Clause 43.04 (Development Plan Overlay); Clause 44.01 (Erosion Management Overlay); Clause 44.02 (Salinity Management Overlay); Clause 44.03 (Floodway Overlay); Clause 44.04 (Land Subject to Inundation Overlay); Clause 44.05 (Special Building Overlay); Clause 52.28 (Gaming).
- Amends Clause 43.01 (Heritage Overlay) to require the schedule to the overlay to specify a statement of significance for each heritage place included in the schedule after Amendment VC148 commences (transitional provisions apply).
- Amends the Clause 43.04 (Development Plan Overlay) to clarify when an application is exempt from the notice and review requirements of the *Planning and Environment Act 1987* (the Act).
- Introduces the Specific Controls Overlay (Clause 45.12), which can be used to apply specific controls designed to achieve a particular purpose in extraordinary circumstances.
- Amends advertising signs provisions as follows:
  - Replaces the term 'advertising signs' with 'signs' throughout the VPP.
  - Amends Clause 62.01 to exempt the display of a sign from any requirement relating to the use of land.
  - Amends Clause 62.02 to clarify that the permit exemptions for signs in Clause 52.05 apply to all permit requirements in the planning scheme.
  - Amends the structure of Clause 52.05 (Signs) so it is clearer and to enable the schedule to the clause to exempt applications for any type of signs from the notice and review requirements of the Act.
  - Amends the Mixed Use Zone (Clause 32.04) to enable the schedule to the zone to specify a different sign category from Clause 52.05.
  - New Clause 73.02 (Sign terms) includes new definitions for the sign terms 'display area' and 'sign'.
  - New Clause 73.03 (Land use terms) lists 'sign' as a land use term in the table without a definition and new Clause 73.04 (Nesting diagrams) lists 'sign' as a land use term that is not nested.

- Amends Clause 52.29 (Land Adjacent to a Road Zone 1, Category 1, or a Public Acquisition Overlay for a Category 1 Road) to exempt an application from the notice and review requirements of the Act and to clarify permit exemptions.

### **Changes that support business by removing unnecessary regulation**

- Amends Clause 33.01 (Industrial 1 Zone) to remove the requirement to obtain a planning permit to use land for a 'convenience shop' and 'take away food premises'.
- Amends Clause 33.03 (Industrial 3 Zone) to remove the requirement to obtain a planning permit to use land for:
  - a 'service industry' if the use is setback a specified distance from sensitive zones and uses
  - a 'take away food premises'.
- Deletes Clause 52.12 (Service station) which sets out site layout and other requirements for a service station and makes the following consequential amendments to ensure potential amenity impacts continue to be considered and regulated:
  - Amends Clause 33.01 (Industrial 1 Zone) to specify a general amenity condition opposite this use in Section 1 of the tables of uses.
  - Amends Clause 32.04 (Mixed Use Zone) to apply the existing decision guidelines for industry and warehouses to this use.
- Deletes Clause 52.13 (Car wash) and Clause 52.14 (Motor vehicle, boat or caravan sales) which set out site layout and other requirements for these uses.
- Amends Clause 52.06 (Car parking) to:
  - provide that a planning permit is not required under Clause 52.06-3 to reduce the car parking requirement for a new use in an existing building in the Commercial 1, Commercial 2 and Activity Centre Zones for up to 10 car parking spaces (subject to meeting specified conditions)
  - apply the car parking rates in Column B of Table 1 if any part of the land is identified as being within the Principal Public Transport Network Area as shown on the *Principal Public Transport Network Area Maps* (State Government of Victoria, 2018).
- Incorporates the *Principal Public Transport Network Area Maps* (State Government of Victoria, 2018) in the VPP.

## **Strategic assessment of the amendment**

### **Why is the amendment required?**

The *Victoria Planning Provisions* have served Victoria well for a long time. However, increasing demands on the planning system and successive reforms have resulted in planning schemes that have grown considerably in size and complexity. The growth in complexity of planning schemes not only affects their efficiency and effectiveness, it also acts as a barrier to long-term change and the benefits that technology can deliver through more responsive and accessible planning services.

The amendment implements part of the Victorian Government's Smart Planning program reforms to simplify and modernise Victoria's planning policy and rules. The 2017 Smart Planning discussion paper, *Reforming the Victoria Planning Provisions* included proposals to simplify and realign the VPP using the six principles of a modern planning scheme - *digital first, user focused, consistent, proportional, land use focused, and policy and outcome focused*.

## ***Integrated Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)***

State and local planning policies play an important role in guiding decision makers and facilitating appropriate outcomes. Except for a modest restructure of the State Planning Policy Framework (SPPF) in 2010, the existing planning policy framework has largely operated in the same form for over 20 years. However, it has been the subject of discussion in a number of reviews over that time. The reviews identified that the VPP system, with its policy foundation, is widely supported, but users seek greater certainty in policy and improved useability.

The new PPF will enable state planning policies (which includes both statewide and regional policies) and local planning policies (from the LPPF) to be merged into a single policy source.

The PPF restructures and reorganises the SPPF in the following ways:

- Regional policies are integrated so they sit in the same clause with corresponding statewide policies. A planning scheme only includes the applicable regional policies.
- Some regional policies are changed to statewide policies where there is a strategic basis derived from a state strategy document, such as *Plan Melbourne 2017-2050* or the regional growth plans, and where the policy:
  - applies across Victoria;
  - should logically be applied across Victoria, rather than to a discrete region, because it is good policy;
  - replicates a statewide policy, but provides clearer direction; or
  - adds a strategy to help support or clarify the policy objective.
- New policies are introduced to enable future integration of local planning policies.
- The location, format and content of policies are modified and standardised so the PPF is clearer, more consistent and logical, and simpler to navigate and apply.
- Grammatical and administrative corrections, clarifications and updates are made.

The LPPF, including the Municipal Strategic Statement (MSS) and local planning policies remain unchanged. However, municipal councils will be required to transition their LPPFs to the new PPF and a new MPS in the future.

The MPS will be a succinct expression of the overarching strategic policy directions of a municipality. It will highlight the planning issues that are important to the municipality and provide context for the local policies in the PPF. The VPP does not include the MPS clauses. The form and content of the MPS is set out in the Ministerial Direction.

The amendment introduces new operational and transitional provisions (new Clauses 23.01, 71.01 and 71.02) to ensure that the current operation of the LPPFs continues before transitioning to the MPS and PPF.

A fully integrated PPF will:

- strengthen planning policy
- create a policy framework that is easier to navigate and use
- ensure policy is consistent and succinct
- simplify the review and update of policy.

### ***A simpler VPP structure with VicSmart built in***

Since its introduction, the VPP has undergone many amendments, resulting in numerous additions to its content but little change to the overall structure. Cumulatively, these changes are affecting the clarity and useability of the VPP and planning schemes.

The amendment makes planning schemes clearer, and simpler to navigate and administer by:

- relocating the classes of State VicSmart applications to the relevant permit triggers in zones, overlays and particular provisions to make the VicSmart process more transparent in planning schemes
- consolidating operational and administrative provisions in one section at the end of the planning scheme to make them easier to locate
- organising 52 particular provisions into three categories that more clearly recognise their different functions and make them easier to navigate.

### ***Improvements to the structure and operation of specific clauses***

The amendment simplifies, clarifies and enhances the structure and operation of several zones, overlays and particular provisions.

#### Integration of local planning policies into the new PPF

To support the future integration of LPPFs into the PPF, several zones, overlays and other provisions now enable their schedules to specify additional matters including purposes, objectives, application requirements or decision guidelines. These matters are better located in controls and the changes enables this.

#### Heritage Overlay

A statement of significance will now be required to be incorporated in the planning scheme for each heritage place included in the schedule to the Heritage Overlay (a three-month transition period applies). The statement of significance for a heritage place is an important document because it justifies the significance of the place as a basis for its inclusion in the Heritage Overlay and is required to be considered when deciding an application. The new requirement will provide greater transparency and assist decision making because the statement will form part of the planning scheme.

#### New Specific Controls Overlay

The new Specific Controls Overlay (Clause 45.12) will be used in place of Clause 52.03 (now Clause 51.01 - *Specific Sites and Exclusions*) to apply specific controls (contained in an incorporated document). The new overlay has the same function as Clause 52.03 and will make planning schemes more transparent by enabling specific controls to be easily identified on planning scheme maps. The Ministerial Direction will prevent the use of the existing particular provision (subject to a three-month transition period). However, it is retained in the VPP so existing controls continue to apply before they are transferred to the new overlay by planning authorities.

### ***Supporting business by removing unnecessary regulation***

Unnecessary planning requirements add to the cost and time of starting or operating a business. These include three particular provisions that specify design and other requirements for the use of land for a service station, car wash and motor vehicle, boat and caravan sales. These provisions have been deleted because their requirements are outdated and impose unnecessary regulatory burden on business. These uses can be appropriately managed through the general approval process (where a permit is required) and conditions in zones.

The draft action statement developed by Small Business Victoria from an extensive review of small business regulation difficulties (*Making it easier to do business in Victoria, Small Business Regulation Review* (Retail Sector) 2016) identified the time taken for small business to receive approvals as a key area for reform.

Several small business activities have been identified as sufficiently low impact that, in appropriate locations, there is no benefit from requiring planning approval. These activities are:

- establishing a *convenience shop* and *take away food premises* in the Industrial 1 Zone
- establishing a *service industry* (subject to setbacks from sensitive zones and uses) and a *take away food premises* in the Industrial 3 Zone.

The cost of making an application for a car parking reduction is significant and time consuming. There is typically little opportunity or justification to provide additional car parking when changing the use of an existing building and a reduced car parking requirement is appropriate in locations that are well serviced by high-quality public transport. The existing requirements therefore provide limited community benefit and can be reduced.

The amendment reduces the circumstances in which a permit is required to reduce car parking spaces by:

- allowing new uses establishing in existing buildings in commercial and activity centre zones to reduce the number of spaces required to be provided by up to 10 spaces without a permit
- applying reduced parking rates specified in Column B of Table 1 in Clause 52.06 to land that is (wholly or partly) within 400 metres of the Principal Public Transport Network (PPTN).

The land the Column B rates apply to is identified in the *Principal Public Transport Network Area Maps*, which are incorporated in the VPP. The PPTN reflects the routes where high-quality public transport services are or will be provided. It supports integrated transport and land use planning, by encouraging more diverse and dense development near high-quality public transport to help support public transport usage.

### **How does the amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives in section 4 of the Act.

It supports the following objectives to:

- provide for the fair, orderly, economic and sustainable use, and development of land
- secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- balance the present and future interests of all Victorians.

The amendment supports these objectives by:

- strengthening planning policies through the new integrated PPF that seeks to ensure that the objectives of planning in Victoria are fostered through appropriate land use and development planning policies and practices that integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development
- simplifying and modernising Victoria's planning policy and rules to make planning more efficient, accessible and transparent
- supporting sustainable use and development by reducing car parking requirements for new uses in commercial areas and within walking distance of high-quality public transport
- reducing regulatory burden and cost to users of the planning system, in particular small business.

### **How does the amendment address any environmental, social and economic effects?**

The amendment is expected to have the following positive environmental, social and economic benefits for Victorian businesses, industry and the community:

- Promoting sustainable use and development by:
  - including in the PPF additional statewide policy at Clause 13.01-1 (Natural hazards and climate change), Clause 14.01 (Agriculture) and Clause 15.02-1 (Energy and resource efficiency) and recognising environmental and landscape values and environmental risk mitigation and adaptation measures through clearer policies in Clause 12 and 13
  - reducing car parking requirements in established commercial areas and within walking distance of high-quality public transport.
- Reduced costs and delays and greater certainty for business, applicants, planning and responsible authorities, and other people that interact with and use the planning system because planning schemes are clearer and easier to navigate and unnecessary regulation is removed.

- Clearer policy direction and certainty on a range of planning issues, including managing urban growth, housing, biodiversity, economic development, transport and infrastructure.

### **Does the amendment address relevant bushfire risk?**

The amendment is not expected to increase the risk to life, property, community infrastructure and the natural environment from bushfire.

### **Does the amendment comply with the requirements of any Minister's Direction applicable to the Amendment?**

The amendment complies with all applicable Ministerial Directions issued under sections 7(5) and 12(2) of the Act.

The Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act has been amended to enable changes to the VPPs made by this amendment.

The amendment has been prepared with regard to Ministerial Direction 9, *Metropolitan Planning Strategy* which refers to *Plan Melbourne 2017-2050*. The amendment is consistent with and will not compromise the implementation of the *Metropolitan Planning Strategy*.

### **How does the amendment support or implement the State Planning Policy Framework (SPPF)?**

The amendment deletes the SPPF and replaces it with the new PPF. The amendment directly supports and implements the following current policies in the SPPF:

- Clause 17.01-1 - Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.
- Clause 18.02-3 - To facilitate greater use of public transport and promote increased development close to high-quality public transport routes in Metropolitan Melbourne.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment has been prepared having regard to the views of relevant departments and agencies as part of the Smart Planning consultation program.

### **How does the amendment address the views of any relevant agency?**

In October 2017, the discussion paper, *Reforming the Victoria Planning Provisions* was released for public comment. The discussion paper outlined five reform proposals, including proposals that are implemented by the amendment. Over 250 submissions were received from a range of stakeholders, including local government, State Government departments and agencies, development and planning industry organisations and practitioners, community groups and individuals.

The Smart Planning program advisory and technical reference groups, which are comprised of State and local government and industry representatives, were also consulted. Targeted consultation with local government, State government departments and agencies has also informed the reforms.

### **Does the amendment have a significant impact on the transport system, as defined by section 3 of the *Transport Integration Act 2010*?**

The amendment is not expected to have a significant impact on the transport system. The amendment may result in a reduction in the use of car-based transport and an increased use of public transport in areas where the reduced parking requirements apply.

## Resource and administrative costs

### What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

There will be a resource cost for responsible authorities to transition their LPPFs to the new MPS and PPF, however, the Victorian Government will provide support and assistance for the transition process.

The simpler and clearer structure of the PPF, planning schemes and specific provisions, and removal of several matters from the need for planning approval, will create savings in time, resources and administrative costs for responsible authorities.

### Where you may inspect this amendment

A copy of the Amendment can be inspected, free of charge, during office hours, at all municipal council offices in Victoria and at the following Department offices:

#### **Barwon South West Region**

Geelong office

Level 4

30-38 Lt Malop Street

GEELONG VIC 3220

#### **Barwon South West Region**

Warrnambool office

78 Henna Street

WARRNAMBOOL VIC 3280

#### **Gippsland Region**

71 Hotham Street

TRARALGON VIC 3844

#### **Grampians Region**

Level 3, 402-406 Mair Street

BALLARAT VIC 3350

#### **Hume Region**

Level 1, 62 Ovens Street

WANGARATTA VIC 3676

#### **Loddon Mallee Region**

Cnr Midland Hwy and Taylor Street

EPSOM VIC 3551

The Amendment is also available for public inspection at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).