

VICTORIA PLANNING PROVISIONS

AMENDMENT VC142

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 includes a wide range of reforms across the VPP that generally remove permit triggers, expand permit exemptions for land uses and buildings and works, remove superfluous and outdated provisions, update references, improve and update definitions, clarify common points of confusion and improves the usability of the VPP. In particular the amendment:

- Removes outdated policy guidelines from Clauses 12.02-5 (Bays), 14.02-1 (Catchment planning and management), 17.03-3 (Maritime precincts) and 19.03-2 (Water supply, sewerage and drainage).
- Amends Clause 12.01-1 of the State Planning Policy Framework to relocate a biodiversity strategy reference and remove the words 'high value' from that reference consistent with recent amendments introduced by Amendment VC138.
- Updates policy guidelines at Clauses 13.02-1 (Floodplain management) and 17.02-2 (Design of industrial development).
- Makes minor revisions to the land use and transport planning strategies at Clause 18.01-1 (Land use and transport planning) due to deletion of Clause 52.36 (Integrated public transport planning).
- Revises Clauses 17.02 (Industry), 32.04 (Mixed Use Zone), 32.05 (Township Zone), 33.01 (Industrial 1 Zone), 33.02 (Industrial 2 Zone), 33.03 (Industrial 3 Zone), 34.01 (Commercial 1 Zone), 34.02 (Commercial 2 Zone), 37.08 (Activity Centre Zone) and 37.09 (Port Zone) to update references to the Occupational Health and Safety Regulations 2017.
- Creates a buildings and works permit exemption for structural changes to a dwelling (with conditions) in Clauses 32.03 (Low Density Residential Zone), 32.04 (Mixed Use Zone), 32.05 (Township Zone), 32.07 (Residential Growth Zone), 32.08 (General Residential Zone), 32.09 (Neighbourhood Residential Zone) and 92 (State VicSmart Applications).
- Makes 'Art gallery' and 'Museum' Section 1 (permit not required) land uses in Clauses 32.04 (Mixed Use Zone) and 34.02 (Commercial 2 Zone).
- Makes 'Art and craft centre' a Section 1 (permit not required) land use in Clauses 34.01 (Commercial 1 Zone) and 34.02 (Commercial 2 Zone).
- Makes 'Warehouse' (other than Mail centre, Fuel depot or Shipping container storage) a Section 1 (permit not required) land use in Clause 33.03 (Industrial 3 Zone) with conditions.
- Removes the requirement for the responsible authority to inform the applicant in writing that the neighbourhood and site description is satisfactory prior to notice being given or the application is determined in Clauses 34.01 (Commercial 1 Zone), 54.01 (Neighbourhood and site description and design response), 55.01 (Neighbourhood and site description and design

response), 56.01 (Subdivision site and context description and design response) and 58.01 (Urban context report and design response).

- Creates an exemption for buildings and works undertaken by or on behalf of a public land manager under the *Road Management Act 2004* in Clause 36.03 (Public Conservation and Resource Zone).
- Creates an exemption (or modifies the existing exemption) for roadworks where the water flow path is not redirected or obstructed in Clauses 37.03 (Urban Floodway Zone), 44.03 (Floodway Overlay), 44.04 (Land Subject to Inundation Overlay) and 44.05 (Special Building Overlay).
- Introduces a permit requirement for a 'Dependent person's unit' in Clauses 44.03 (Floodway Overlay), 44.04 (Land Subject to Inundation Overlay) and 44.05 (Special Building Overlay).
- Introduces a permit requirement for a rainwater tank of any size in Clause 44.05 (Special Building Overlay) making it consistent with Clauses 44.03 (Floodway Overlay) and 44.04 (Land Subject to Inundation Overlay).
- Revises Clause 43.01 (Heritage Overlay) to:
 - Exempt the following from a planning permit:
 - Fences, swimming pools and spas (and associated equipment), decks, non-domestic disabled access ramps, and electric vehicle charging stations if they are not visible from a street (other than a lane) or public park.
 - Services normal to a building other than a dwelling, including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices, or similar if not visible from a street (other than a lane) or public park.
 - Bicycle pathways and trails.
 - Clarify a planning permit is not required for roadworks which do not change the appearance of a heritage place or which are generally undertaken to the same details, specifications and materials.
 - Introduce an exemption from notice and review for roadworks, electric vehicle charging stations and services normal to a building other than a dwelling.
 - Reflect within Clause 92 (State VicSmart Applications) that applications under a Heritage Overlay include the following:
 - Construct or install an electric vehicle charging station,
 - Construct and install services normal to a building other than a dwelling including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices, or similar.
- Revises Clause 52.06 (Car parking) to remove the requirement to provide car parking to the satisfaction of the responsible authority for a temporary portable land sales office use.
- Removes permit requirements related to the loading and unloading of vehicles by deleting Clauses 52.07 (Loading and unloading of vehicles), 93.11 (Loading and unloading facilities) and 92.05 (Table 3 Classes of application under particular provisions – loading and unloading of vehicles). The amendment also updates Clause 65 (Decision guidelines) and Clause 93.04 (Building and works in a zone [except a rural zone]) to ensure that loading and unloading facilities, amenity and traffic flow and safety issues are considered.

- Renames Clause 52.11 from 'Home Occupation' to 'Home Based Business' and revises the clause to:
 - Increase the number of allowable people who do not live in the dwelling to work in the home based business;
 - Increase the floor area used to store goods or materials;
 - Change the measurement of floor area from gross floor area to net floor area.
 - Clarify that vehicles may not be adjusted or modified for commercial gain;
 - Clarify the ability to sell online goods;
 - Replace the land use term 'Home occupation' with 'Home based business'.
- Revises Clause 52.29 (Land adjacent to a road zone, Category 1, or a public acquisition overlay for a Category 1 road) to expand permit exemptions and remove redundant referral triggers.
- Deletes Clause 52.36 (Integrated public transport planning) and relocates referral requirements in Clause 66 (Referral and notice provisions).
- Revises Clause 66 (Referral and notice provisions) to update reference to the Dangerous Goods (HCDG) Regulations 2016 and the Occupational Health and Safety Regulations 2017.
- Expands the permit exemptions in Clause 62 (Uses, buildings, works, subdivisions and demolition not requiring a permit) for the following:
 - Removal of the exemption requirement for road trading to be authorised by the Council under a local law.
 - Increasing the rainwater tank capacity from 4,500 litres to 10,000 litres and making consequential changes to Clauses 33.01 (Industrial 1 Zone), 33.02 (Industrial 2 Zone), 33.03 (Industrial 3 Zone) and 37.09 (Port Zone).
- Introduces new permit exemptions in Clause 62 (Uses, buildings, works, subdivisions and demolition not requiring a permit) for the following:
 - Use of land for a minor utility installation, including consequential changes to relevant zones and overlays to remove this land use term from the table of uses.
 - Works associated with geotechnical testing or service proving.
 - Buildings and works associated with use of the land in a road to trade from a stall, stand, motor vehicle, trailer, barrow or other similar device.
 - Services normal to a building other than a dwelling including chimneys, flues, skylights, heating and cooling systems, hot water systems, security systems and cameras, downpipes, window shading devices, or similar.
 - An electric vehicle charging station.
- Revises the following land use terms in Clauses 74 (Land use terms) and 75 (Nesting diagrams) and makes consequential changes to relevant zones and overlays:
 - 'Research and development centre' definition to include 'testing'.
 - 'Adult sex bookshop' term to be replaced with 'Adult sex product shop'.

- 'Home occupation' term to be replaced with 'Home based business'.
- 'Pleasure boat facility' term to be replaced with 'Recreational boat facility'.
- 'Pleasure park' term to be replaced with 'Amusement park'.
- 'Warehouse' definition to be revised to clarify it can include the storage and distribution of goods for online retail, but excludes in-person collection and retail sales.
- Deletes 'Business college' and 'Cabaret' land use terms from Clause 74 (Land use terms) and Clause 75 (Nesting diagrams).
- Simplifies land use terminology and varies the regulation of markets by:
 - Deleting 'Community market' and 'Trash and treasure market' land use terms from Clause 74 (Land use terms) and Clause 75 (Nesting diagrams)
 - Making consequential changes by deleting 'Community market' and making 'Market' a Section 2 (permit required) use in Clause 32.03 (Low Density Residential Zone), Clause 32.07 (Residential Growth Zone), Clause 32.08 (General Residential Zone) and Clause 32.09 (Neighbourhood Residential Zone).

Strategic assessment of the amendment

Why is the amendment required?

Amendment VC142 forms part of the Smart Planning Rules and Policy Program to reform Victoria's planning system and change the VPP to make planning schemes more efficient, accessible and transparent.

Amendment VC142 makes a number of changes to the VPP and all planning schemes in Victoria. These have been identified through the Smart Planning program's consultation feedback provided in 2017 and by relevant Victorian Civil and Administrative Tribunal decisions, Planning Panels Victoria recommendations, government inquiries, industry reviews, professional input and other sources.

Amendment VC142 removes and updates redundant policy guidelines, land use terms, referral triggers, and other VPP requirements to assist with current practice and to provide better usability of the VPP.

The amendment deletes some Particular provisions to make more appropriate use of other existing parts of the VPP where content is better placed. Other Particular provisions have been updated to provide greater flexibility that will assist with supporting economic activity.

Amendment VC142 clarifies and expands the buildings and works exemptions throughout the VPP and introduces permit exemptions for low impact land uses and minor building and works to streamline planning processes and reduce regulatory burden and cost to users of the system.

The amendment will improve the overall clarity and consistency of the VPP and in turn provide greater certainty for applicants and responsible authorities. It will remove low impact and low risk matters from the planning system, reduce delays, and allow for resources to be directed to more significant applications.

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

The amendment implements the objectives in section 4 of the *Planning and Environment Act 1987* (the Act). In particular, it supports the following objectives:

- (a) *to provide for the fair, orderly, economic and sustainable use, and development of land* by streamlining planning processes and reducing regulatory burden and cost to users of the system.
- (d) *to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value* by revising the Heritage Overlay in a way that protects heritage values and allowing greater focus on applications with greater potential impacts.
- (e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community* by ensuring that appropriate consideration in the VPP is given to integrated public transport planning; car parking and loading and unloading of vehicles.
- (g) *to balance the present and future interests of all Victorians* by reforming Victoria's planning system to make the system more relevant, accessible and transparent for Victorians over time.

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

The amendment is expected to have a number of positive economic benefits for Victorian businesses and industry. In particular it will:

- Support small business by allowing greater flexibility for home based businesses.
- Reduce the costs to applicants and councils by increasing permit exemptions and updating provisions to provide greater clarity and certainty.
- Facilitate new forms of online business by supporting online retail activities through changes to the definition of a 'Warehouse' and home based business provisions.

The amendment includes measures which will improve community safety and therefore have a positive social impact. This includes new permit requirements for dependent person's units in flood-prone areas.

The amendment will have a positive environmental effect by ensuring decision making takes into account the impacts of land use and development on Victoria's biodiversity.

Does the amendment address relevant bushfire risk?

The Amendment does not make any changes to bushfire provisions and will therefore not increase the risk of 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?

Amendment VC142 complies with all Ministerial Directions issued under section 12 of the Act.

The Amendment complies with the *Ministerial Direction on the Form and Content of Planning Schemes* issued under section 7(5) of the Act.

The amendment has had regard to and is consistent with *Practice Note 46 – Strategic Assessment Guidelines*.

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

Amendment VC142 supports or implements the objectives of the SPPF by ensuring that the tools designed to implement the SPPF are better targeted and effective. It also updates the SPPF itself to reflect current policy and industry practice, by:

- removing or updating redundant policy guidelines.
- updating a biodiversity strategy to ensure consistency with recent policy amendments introduced by Amendment VC138.
- making minor revisions to the land use and transport planning strategies.

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

The Amendment seeks to change the VPP in a way that it consistent with its original objectives and in doing so make it more effective and efficient.

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

Amendment VC142 has been prepared having regard to the views of relevant departments and agencies.

The views of relevant departments and agencies such as the Department of Environment Land Water and Planning; the Department of Economic Development, Jobs, Transport and Resources; VicRoads; Country Fire Authority; Environment Protection Authority; Transport for Victoria; Heritage Victoria; Melbourne Water; some catchment management authorities; Level Crossing Removal Authority; and a number of municipal councils have been considered as part of the preparation of Amendment VC142. State and local government reference groups and industry reference groups have also been consulted.

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

The amendment will not have an impact on the transport system.

Although referral provisions related to public transport are being relocated within the VPP, Transport for Victoria will remain a determining referral authority for the same types of applications following the amendment.

Amendment VC142 has had regard to, and is consistent with, *Advisory Note 34 – Addressing the Transport Integration Act in a Planning Scheme*.

Resource and administrative costs

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

Amendment VC142 is expected to have a positive effect on the resource and administrative costs of responsible authorities and referral authorities, as it provides for greater clarity, certainty and more streamlined and informed decision making.

This is achieved by measures such as updating outdated terminology, removing redundant policy references, relocating content to more suitable locations within the VPP and ensuring planning provisions reflect modern business needs including online retailing.

Some of the changes made by the amendment have the potential to increase permit applications related to specific provisions, due to greater discretions being made available for markets in some zones and a new permit trigger for dependent person's units in some flood-prone areas. However, any increases in permit applications due to those changes are expected to be more than offset by a wide range of new permit exemptions for land uses and buildings and works. These include the provision of new permit exemptions in relation to minor buildings and works in heritage areas, home based businesses, larger rainwater tanks and structural changes to dwellings, among others. Furthermore, the amendment removes a whole class of permit trigger through the deletion of any permit requirements related to the loading and unloading of vehicles.

The amendment will also reduce administrative costs of responsible authorities for many residential development proposals by removing the requirement to inform applicants in writing that the neighbourhood and site description is satisfactory.

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.