

# Amendment VC148

## Planning Advisory Note 72

July 2018

This Advisory Note provides information about changes to the *Victoria Planning Provisions* (VPP) and planning schemes introduced by Amendment VC148.

Amendment VC148 is part of the Smart Planning program's reforms to simplify and modernise Victoria's planning policy and rules to make planning schemes more efficient, accessible and transparent.

There are two Advisory Notes for Amendment VC148. This Advisory Note provides information about changes to the *Victoria Planning Provisions* (VPP) and planning schemes introduced by Amendment VC148.

Additional information about the Planning Policy Framework introduced by this amendment is provided in [Advisory Note 71](#) and in the explanatory report for the amendment, which is available on [Planning Schemes Online](#).

### Why is change needed?

The VPP has 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 VPP introduced standardised planning scheme provisions in response to a proliferation of localised controls and the increasing complexity and disparity of planning schemes. It was founded on the principles that planning schemes:

- have a policy focus
- will facilitate appropriate development
- are usable
- are more consistent across the state.

The amendment implements part of the Victorian Government's Smart Planning program reforms to simplify and modernise Victoria's planning policy and rules.

These reforms have been identified through work undertaken by the Smart Planning program and included in the discussion paper *Reforming the Victoria Planning Provisions*, released for public comment in October 2017. The discussion paper included proposals to simplify and realign the VPP using the six principles of a modern planning scheme (outlined below).



The changes made by Amendment VC148 are necessary to ensure that the VPP and planning schemes not only remain aligned to the founding principles, but also implement the principles of a modern planning scheme.

### Principles of a modern planning scheme

- **Digital first** – provisions should be optimised for more efficient access and processing of planning information, including through better digital interfaces.
- **User focused** – provisions should be end user focused and provide accessible, transparent and understandable pathways to navigate the approval process.
- **Consistent** – the architecture of provisions and how they are applied should be simple and consistent regardless of the content, so that it is clearly understood and applied by planning authorities and proponents.
- **Proportional** – provisions should impose a level of regulatory burden that is proportionate to the planning and environmental risks.
- **Land use focused** – provisions should avoid conflict and overlap with other interlocking regulatory regimes.
- **Policy and outcome focused** – provisions should ensure that controls have a clear policy basis and are planning outcomes driven.

### Smart Planning program

The Smart Planning program is delivering long term, transformative change to the Victorian planning system to make it more responsive to the needs of Victorians. The changes made by Amendment VC148 are one part of this broader program. You can find out more about Smart Planning at: [planning.vic.gov.au/smart-planning](http://planning.vic.gov.au/smart-planning).

### What does Amendment VC148 do?

Amendment VC148 implements changes to the VPP and planning schemes to clarify, simplify and improve their structure, function and operation, and to remove unnecessary regulation.

In summary, Amendment VC148:

- introduces a new Planning Policy Framework (PPF)
- enables the future introduction of a Municipal Planning Strategy (MPS)
- simplifies the VPP structure by:
  - restructuring particular provisions
  - integrating VicSmart into applicable zones, overlays and particular provisions
  - consolidating operational and administrative provisions
- amends specific zones, overlays and particular provisions to improve their structure and operation, and to support the future translation of Local Planning Policy Frameworks (LPPFs) into the MPS and PPF
- introduces a new Specific Controls Overlay to replace Clause 52.03 (Specific Sites and Exclusions)
- deletes outdated particular provisions
- deletes permit requirements for low-impact uses in industrial zones
- reduces car parking requirements for uses in commercial areas and for land within walking distance of high-quality public transport.

Information on key changes is provided below.



## A simpler VPP structure with VicSmart built in

The VPP has been restructured to implement the new PPF, support the future translation of LPPFs into the MPS and PPF, and to make planning schemes easier to navigate and use.

The new VPP structure is shown in the new planning scheme structure in **Attachment 1**. It consists of three parts:

### 1. Policy settings:

- **Purpose of the planning scheme**
- **MPS** (will only be included in a planning scheme when the LPPF is translated into the MPS and PPF)
- **PPF** (has replaced the State Planning Policy Framework - SPPF)
- **Local Planning Policy Framework** (retained in the planning scheme until translated into the MPS and PPF)

### 2. Decision rules:

- **Zones**
- **Overlays**
- **Particular provisions** (restructured)
- **General provisions**

### 3. Operation:

- **Operational provisions** (for the MPS, PPF, zones, overlays, particular provisions and VicSmart)
- **Administration provisions** (including incorporated documents)
- **Meaning of terms** (general, sign and land use terms and nesting diagrams)
- **Strategic implementation** (will only be included in a planning scheme when a LPPF is translated into the MPS and PPF).

## Implementation of the Planning Policy Framework

The Amendment implements the PPF by introducing various changes to the VPP, including:

- a new 3-tier integrated policy structure
- new and updated policy themes
- integration of regional policy.

The policy themes are shown in **Attachment 2**.

More information about the policy themes, MPS and PPF is provided in [Advisory Note 71](#).



### **Particular provisions restructured**

Particular provisions from Clauses 52, 53 and 57 have been organised into three categories that more clearly recognise their different functions and make them easier to navigate:

1. Provisions that apply only to a specified area (Clause 51).
2. Provisions that require, enable or exempt a permit (Clause 52).
3. General requirements and performance standards (Clause 53).

The restructure has resulted in the renumbering of several provisions. The new structure of the particular provisions is shown in **Attachment 3**.

### **VicSmart integrated**

The classes of State VicSmart applications (previously contained in Clause 92) have been moved so they sit with the relevant permit triggers in zones, overlays and particular provisions.

The information requirements and decision guidelines for State VicSmart applications have been moved to the particular provisions in Clauses 59.01 to 59.14.

Local VicSmart applications have not been integrated into the VPP at this time:

- Classes of local VicSmart applications are to be specified in the schedule to Clause 59.15.
- Information requirements and decision guidelines for local VicSmart applications are to be specified in the schedule to Clause 59.16.

The operation of VicSmart has not changed. The operational provisions for the VicSmart process are now contained in Clause 71.06.

### **Operational and administrative provisions consolidated**

The new operational provisions section of the VPP (Clause 70) consolidates the following provisions:

- Operational provisions for the new MPS and PPF.
- Operational provisions for zones, overlays, particular provisions and VicSmart (previously in Clauses 31, 41, 51 and 91, respectively).
- Administration provisions (previously Clauses 61.01 to 61.06).
- Incorporated documents (previously Clause 81).
- Background documents (new clause).
- General, sign and land use terms and nesting diagrams (from previous Clauses 71 to 75.17).
- Strategic implementation (new provisions only included when an LPPF is translated into the MPS and PPF).

The structure of Clause 70 is shown in **Attachment 4**.



## Changes to support the future translation into the MPS and PPF

To support the future translation of LPPFs into the MPS and PPF, several zones, overlays and other provisions have been amended to enable their schedules to specify additional matters, including objectives, application requirements or decision guidelines.

Often these matters are included in local planning policies because some controls do not enable these matters to be specified. This has now been corrected.

The changes are summarised in the following table:

Provision	Change enables schedule to specify:
Urban Floodway Zone	<ul style="list-style-type: none"> <li>• Application requirements</li> <li>• Decision guidelines</li> </ul>
Environmental Significance Overlay Vegetation Protection Overlay Significant Landscape Overlay Design and Development Overlay	<ul style="list-style-type: none"> <li>• Application requirements</li> </ul>
Development Plan Overlay	<ul style="list-style-type: none"> <li>• Objectives</li> </ul>
Erosion Management Overlay Salinity Management Overlay Floodway Overlay Land Subject to Inundation Overlay Special Building Overlay	<ul style="list-style-type: none"> <li>• Objectives</li> <li>• A statement of risk</li> <li>• Application requirements</li> <li>• Decision guidelines</li> </ul>
Heritage Overlay (more information provided below)	<ul style="list-style-type: none"> <li>• Statement of significance (mandatory)</li> <li>• Heritage design guidelines</li> <li>• Application requirements</li> </ul>
Gaming (Clause 52.28)	<ul style="list-style-type: none"> <li>• Objectives</li> <li>• Location guidelines</li> <li>• Venue guidelines</li> <li>• Application requirements</li> <li>• Decision guidelines</li> </ul>

The schedule templates for zones and overlays in the Ministerial Direction - *The Form and Content of Planning Schemes* (Ministerial Direction), have been amended to reflect these changes. The Ministerial Direction can be viewed online at: [www.planning.vic.gov.au/guide-home/the-role-of-the-minister](http://www.planning.vic.gov.au/guide-home/the-role-of-the-minister)

When an existing schedule is amended, it must be updated to reflect the Ministerial Direction.



### Changes to the Heritage Overlay

New Clause 43.01-5 in the Heritage Overlay now requires that a schedule to the overlay **must specify** a statement of significance for each heritage place included in the schedule after the commencement of Amendment VC148.

The new requirement does not apply to a heritage place included in the schedule by an amendment prepared or authorised by the Minister under section 8(1)(b) or section 8A(4) of the *Planning and Environment Act 1987* (the Act) before or within three months after the commencement of the Amendment VC148.

The schedule may specify a statement of significance for any heritage place included in the schedule before Amendment VC148 or during this transition period. A decision to do so can be made by each council.

More information about statements of significance is provided in Planning Practice Note 1 - *Applying the Heritage Overlay*.

New Clause 43.01-6 enables the schedule to also specify heritage design guidelines for any heritage place. A heritage design guideline must not contain any mandatory requirements.

Any statement or guidelines specified in the schedule must also be incorporated into the planning scheme. This requirement is included in the Ministerial Direction.

The form of the Heritage Overlay schedule has also been changed in the Ministerial Direction. When an existing schedule is amended, it must be updated to reflect the Ministerial Direction.

### Changes to improve the structure and operation of specific provisions

Amendment VC148 amended several provisions to simplify, clarify and enhance their structure and operation.

#### New Specific Controls Overlay

The Specific Controls Overlay (SCO) has been introduced to replace the particular provision Clause 51.01 - *Specific Sites and Exclusions* (previously Clause 52.03).

The SCO operates in the same way as Clause 51.01. However, it will be more transparent because it will be shown on planning scheme maps and planning certificates.

The specific control will be contained in a document that is:

- incorporated in the planning scheme (by being listed in the schedule to Clause 72.04)
- specified in the schedule to the SCO with the corresponding map notation.

The Ministerial Direction provides that Clause 51.01 must no longer be used to apply a specific control to land.

However, the particular provision may still be used if the amendment has been prepared or authorised by the Minister under section 8(1)(b) or section 8A(4) of the Act before or within three months after the commencement of Amendment VC148 (this transition is specified in the Ministerial Direction).

Existing incorporated documents specified in the schedule to Clause 51.01 continue to apply, and will be translated over time.



### Development Plan Overlay – notice and review exemption clarified

The notice and review exemption in the Development Plan Overlay (DPO) has been modified to remove the 'catch 22' identified in *Saunders v Frankston CC (Red Dot)* [2009] VCAT 144 (19 February 2009).

The modification does not change the practical operation of the DPO, but does remove a source of potential confusion.

The third purpose of the DPO has also been modified to reflect the change to the notice and review exemption.

### Provisions regulating the use and development of land for signs

Provisions that regulate the use and development of land for signs have been amended to modernise, clarify and generally improve their structure and operation.

#### Sign terms

The term 'advertising signs' has been replaced with 'signs' throughout the VPP (including in zones, overlays and Clause 52.05). This change reflects the fact that planning schemes regulate a range of sign types, including direction and information signs.

Consequential changes have been made to the terms and definitions for 'display area' (previously 'advertisement area') and 'sign' in Clause 73.02 as follows:

Sign terms	Old definition	New definition
Display area	The total area of an advertisement. If the advertisement does not rotate or move, the area is one side only.	The area of that part of a sign used to display its content, including borders, surrounds and logo boxes.  It does not include safety devices, platforms and lighting structures.  If the sign does not move or rotate, the area is one side only.
Sign	An advertisement and any structure built specifically to support it.	Includes a structure specifically built to support or illuminate a sign.

#### Use of land to display a sign

A permit is no longer required to use land to display a sign. An exemption has been included in Clause 62.01 (Uses not requiring a permit).

To support this change, the term 'sign' has been listed in the table to Clause 73.03 (Land use terms). The term has not been defined and so has its ordinary meaning.

#### Signs exempt from a permit

Exemptions have been included in Clauses 62.02-1 and 62.02-2 to clarify that the permit exemptions in Clause 52.05-10 (Signs not requiring a permit) apply to all planning scheme provisions.



### Changes to Clause 52.05 (Signs)

Clause 52.05 (Signs) has been amended to:

- clarify that the clause only applies to the development of land for signs
- make it clearer by including more headings, improved drafting and integrating requirements for major promotion signs
- replace the phrase 'display a sign' with 'construct or put up for display a sign' to align with the definition of 'development' in section 3 of the Act
- enable the schedule to the clause to exempt an application for any type of sign from the notice and review requirements of the Act (previously only an application for a major promotion sign could be exempted by the schedule)
- require a permit that includes an expiry date to include a condition that provides that on expiry of the permit the sign and structures built specifically to support and illuminate it must be removed.

### Change to sign requirements in the Mixed Use Zone

The Mixed Use Zone now enables its schedule to specify a different sign category from Clause 52.05.

### Clause 52.29 – new notice and review exemption

An application under Clause 52.29 (Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) is now exempt from the notice and third-party review requirements of the Act. A notice and review exemption has been introduced at Clause 52.29-5.

### Outdated particular provisions deleted

Unnecessary planning requirements add to the cost and time of starting or operating a business.

Amendment VC148 deleted three particular provisions that specified design and other requirements for the use of land for a service station (Clause 52.12), a car wash (Clause 52.13), or motor vehicle, boat or caravan sales (Clause 52.14). These requirements were outdated and imposed unnecessary regulatory burden on business.

To ensure potential amenity impacts associated with service stations can be managed, the following changes have also been made:

- The amenity conditions (Clause 32.04-3) and decision guidelines (Clause 32.04-13) in the Mixed Use Zone that previously applied only to industry and warehouse uses now also apply to the use of land for a service station.
- In the Industrial 1 Zone, a standard amenity condition has been added to 'service station' in the table of uses at Clause 33.01-1.

### Permit requirements for low-impact uses deleted

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.



The following low-impact uses are now Section 1 uses (permit not required) in the specified industrial zones:

- **Convenience shop** – Industrial 1 Zone.
- **Take away food premises** – Industrial 1 Zone and Industrial 3 Zone.
- **Service industry** – Industrial 3 Zone (subject to conditions specified in the table of uses).

### **Reduced car parking requirements**

Making an application for a car parking reduction is costly 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. In these circumstances the car parking requirements provide limited community benefit and so have been reduced.

Amendment VC148 changed Clause 52.06 (Car parking) to reduce car parking requirements for new uses of existing buildings in commercial areas and for land within walking distance of public transport on the Principal Public Transport Network (PPTN).

#### **New permit exemption for uses in commercial areas**

A permit is no longer required under Clause 52.06-3 to reduce the required number of car parking spaces for a new use of an existing building if the following requirements are met:

- The building is in the Commercial 1 Zone, Commercial 2 Zone or Activity Centre Zone.
- The gross floor area of the building is not increased.
- The reduction does not exceed 10 car parking spaces.
- The building is not in a Parking Overlay with a schedule that allows a financial contribution to be paid in lieu of the provision of the required car parking spaces for the use.

This permit exemption will reduce delays and costs for business in established commercial areas.

#### **Reduced car parking requirements near public transport**

The reduced parking rates specified in Column B of Table 1 in Clause 52.06 now apply if any part of the land is identified as being within 400 metres of the PPTN as shown on the Principal Public Transport Network Area Maps (PPTN Area Maps).

The Column B rates apply to the whole of the land, even if only part of the land is within the PPTN Area Maps.

The PPTN Area Maps are incorporated in the VPP at Clause 72.04 and consist of 33 maps covering 31 municipalities. The maps can be viewed online at: [planning.vic.gov.au](http://planning.vic.gov.au)

The PPTN outlines 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. The PPTN is incorporated in the VPP.

More information about the PPTN is available online at: [transport.vic.gov.au/about/planning/principal-public-transport-network/](http://transport.vic.gov.au/about/planning/principal-public-transport-network/)



## Phasing out the Priority Development Zone

The Ministerial Direction has been amended to prevent the future use of the Priority Development Zone (PDZ).

Existing schedules to the PDZ can be amended, however, no new schedules can be introduced. Amendment VC148 did not change the PDZ.

## How does Amendment VC148 affect current permit applications?

Current applications for permits and applications to amend permits must continue to be assessed against the existing LPPF and must now be assessed against the new PPF (where required by the planning scheme).

Amendment VC148 does not introduce new permit requirements. However, a number of uses and other matters no longer require a permit and some requirements have been reduced (for example, car parking requirements).

Responsible authorities are encouraged to review their current applications to determine whether any are affected by the new exemptions or modified requirements.

If a proposal no longer requires a permit, the responsible authority should notify the applicant of this and consider whether a full or partial refund of the application fee is appropriate.

Councils should review their report templates and processes to identify and update references to planning scheme provisions that have been changed by Amendment VC148.

## More information

To view Amendment VC148 go to [Planning Schemes Online](#).

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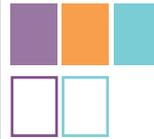
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# ATTACHMENT 1: NEW PLANNING SCHEME STRUCTURE

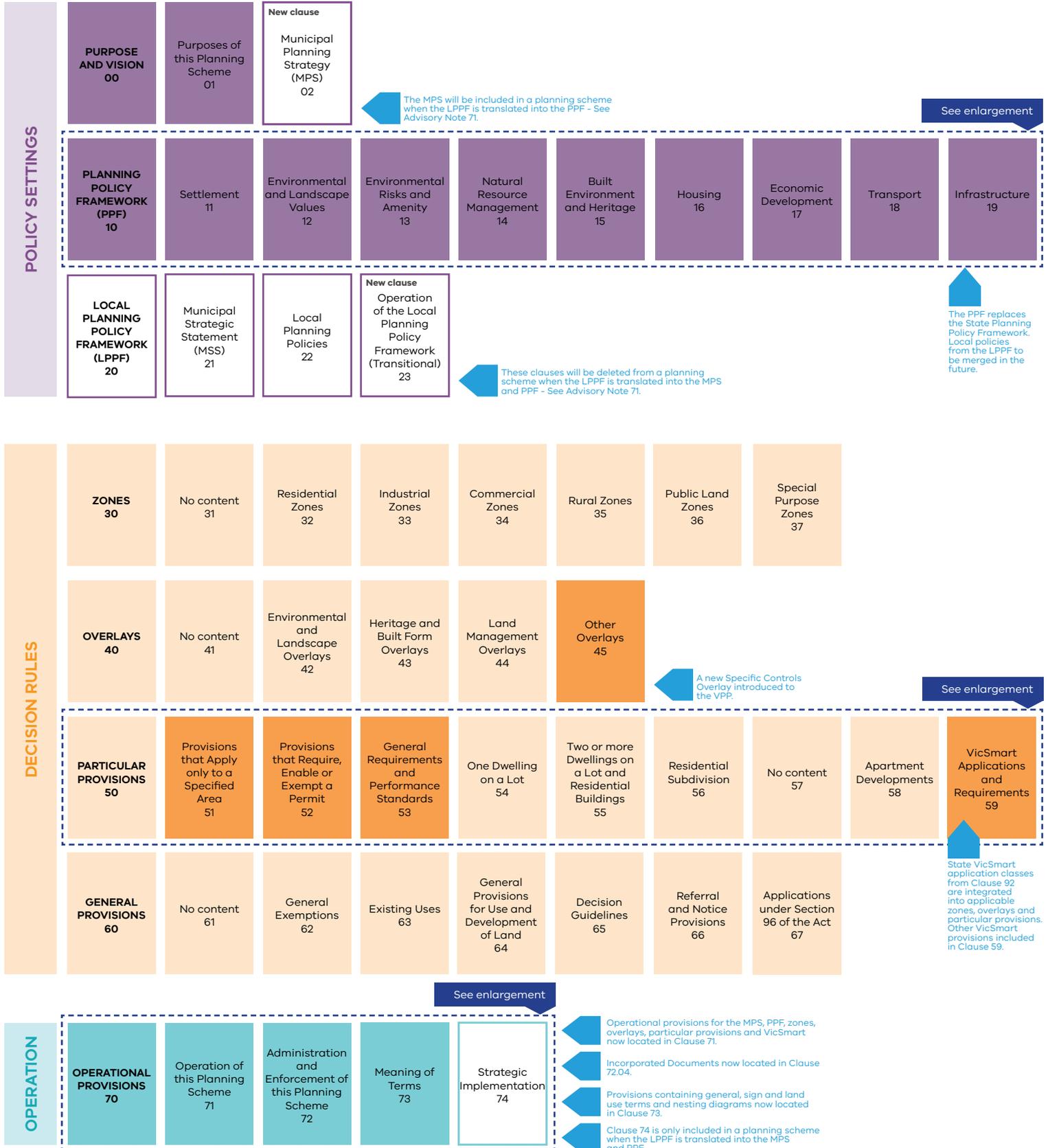
## AMENDMENT VC148

### Key:



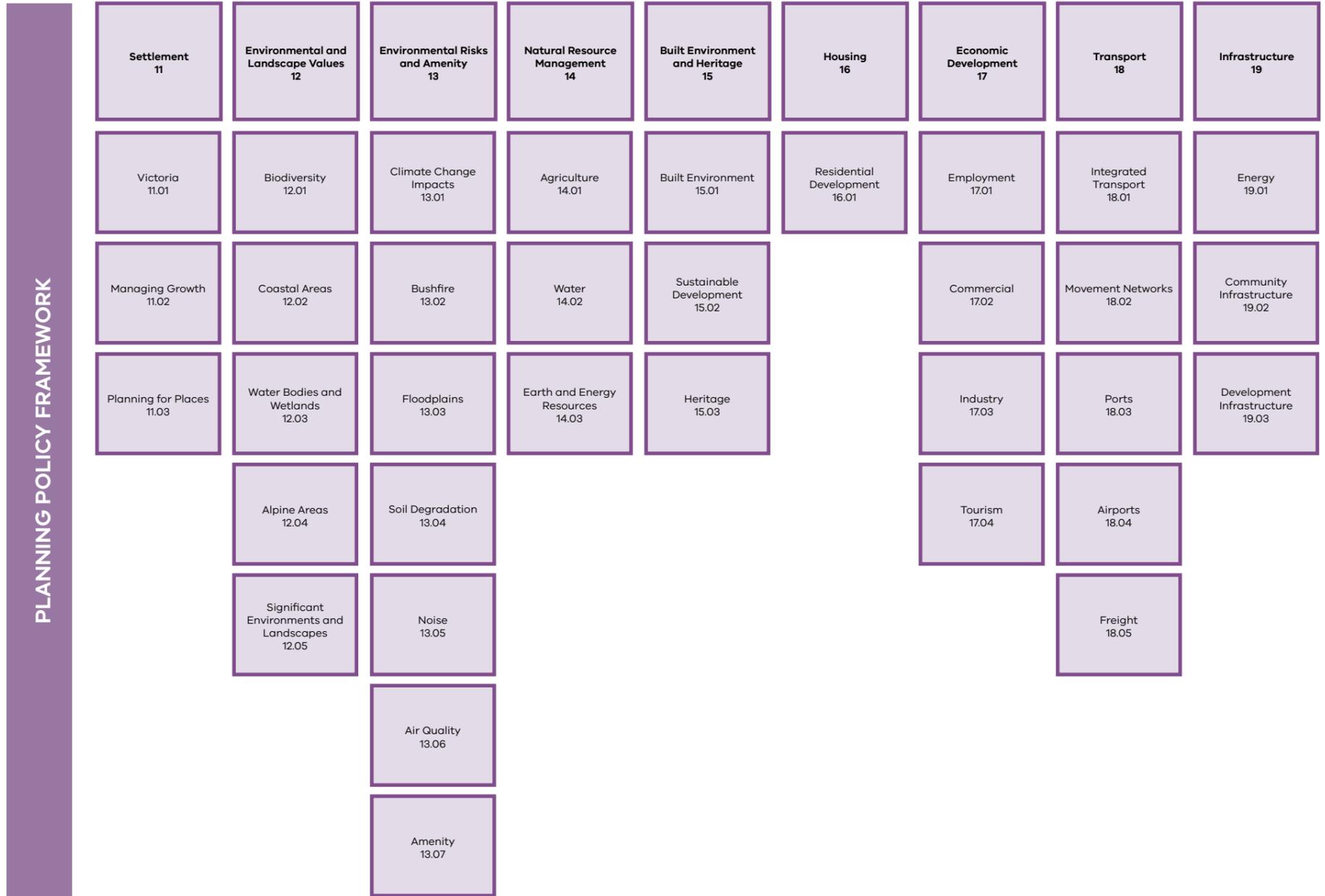
New/modified content or renumbered clauses.

Clauses that will be either added or removed as part of the integration of local policy content into the Planning Policy Framework.



**ATTACHMENT 2: PLANNING POLICY FRAMEWORK (PPF)**  
 AMENDMENT VC148

Note: All clauses contain new/modified content or have been renumbered.



**ATTACHMENT 3: CHANGES TO REFORMED PARTICULAR PROVISIONS**

**AMENDMENT VC148**

**Key:**

New/modified content or renumbered particular provisions (excluding clauses with no content)

PARTICULAR PROVISIONS	<i>New clause</i>	<i>New clause</i>	<i>New clause</i>							
	Provisions that Apply only to a Specified Area 51	Provisions that Require, Enable or Exempt a Permit 52	General Requirements and Performance Standards 53	One Dwelling on a Lot 54	Two or more Dwellings on a Lot and Residential Buildings 55	Residential Subdivision 56	No content 57	Apartment Developments 58	VicSmart Applications and Requirements 59	
	Specific Sites and Exclusions 51.01	No content 52.01	No content 52.18	Public Open Space Contribution and Subdivision 53.01	Neighbourhood and Site Description and Design Response 54.01	Neighbourhood and Site Description and Design Response 55.01	Subdivision Site and Context Description and Design Response 56.01		Urban Context Report and Design Response 58.01	Realign the Common Boundary between Two Lots 59.01
	Metropolitan Green Wedge Land: Core Planning Provisions 51.02	Easements, Restrictions and Reserves 52.02	Telecommunications Facility 52.19	Bushfire Planning 53.02	Neighbourhood Character 54.02	Neighbourhood Character and Infrastructure 55.02	Policy Implementation 56.02		Urban Context 58.02	Subdivision of Buildings and Car Parking Spaces 59.02
	Upper Yarra Valley and Dandenong Ranges Strategy Plan 51.03	No content 52.03	No content 52.20	Brothels 53.03	Site Layout and Building Massing 54.03	Site Layout and Building Massing 55.03	Liveable and Sustainable Communities 56.03		Site Layout 58.03	Front Fence in a Residential Zone 59.03
	Melbourne Airport Environs Strategy Plan 51.04	Satellite Dish 52.04	Private Tennis Court 52.21	Convenience Restaurant and Take-Away Food Premises 53.04	Amenity Impacts 54.04	Amenity Impacts 55.04	Lot Design 56.04		Amenity Impacts 58.04	Buildings and Works in a Zone (except a Rural Zone) 59.04
	Williamstown Shipyard Site Strategy Plan 51.05	Signs 52.05	Crisis Accommodation 52.22	Freeway Service Centre 53.05	On-Site Amenity and Facilities 54.05	On-Site Amenity and Facilities 55.05	Urban Landscape 56.05		On-Site Amenity and Facilities 58.05	Buildings and Works in an Overlay 59.05
		Car Parking 52.06	Shared Housing 52.23	Live Music and Entertainment Noise 53.06	Detailed Design 54.06	Detailed Design 55.06	Access and Mobility Management 56.06		Detailed Design 58.06	Remove, Destroy or Lop a tree 59.06
		No content 52.07	Community Care Unit 52.24	Shipping Container Storage 53.07		Apartment Developments 55.07	Integrated Water Management 56.07		Internal Amenity 58.07	Applications under a Heritage Overlay 59.07
		Earth and Energy Resources Industry 52.08	Crematorium 52.25	Cattle Feedlot 53.08			Site Management 56.08			Applications under a Special Building Overlay 59.08
		Stone Extraction and Extractive Industry Interest Areas 52.09	No content 52.26	Broiler Farm 53.09			Utilities 56.09			Signs 59.09
		No content 52.10	Licensed Premises 52.27	Uses with Adverse Amenity Potential 53.10						Car parking 59.10
		Home Based Business 52.11	Gaming 52.28	Timber Production 53.11						No Content 59.11
		Bushfire Protection: Exemptions 52.12	Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road 52.29	Racing Dog Keeping and Training 53.12						Two Lot Subdivision in a Rural Zone 59.12
		2009 Bushfire - Recovery Exemptions 52.13	No content 52.30	Renewal Energy Facility (other than Wind Energy Facility and Geothermal Energy Extraction) 53.13						Buildings and Works in a Rural Zone 59.13
		2009 Bushfire - Replacement Buildings 52.14	No content 52.31	Resource Recovery 53.14						Extension to One Dwelling on a Lot in a Residential Zone 59.14
		Heliport and Helicopter Landing Site 52.15	Wind Energy Facility 52.32	Statement of Underlying Provisions 53.15						Local VicSmart Applications 59.15
		Native Vegetation Precinct Plan 52.16	Post Boxes and Dry Stone Walls 52.33							Information Requirements and Decision Guidelines for Local VicSmart Applications 59.16
		Native Vegetation 52.17	Bicycle Facilities 52.34							

**ATTACHMENT 4: CHANGES TO REFORMED OPERATIONAL PROVISIONS**  
**AMENDMENT VC148**

Note: All clauses contain new/modified content or have been renumbered.

<b>OPERATIONAL PROVISIONS</b>	Operation of this Planning Scheme 71	Administration and Enforcement of this Planning Scheme 72	Meaning of Terms 73	New clause Strategic Implementation 74
	Operation of the Municipal Planning Strategy 71.01	Responsible Authority for this Planning Scheme 72.01	General Terms 73.01	New clause Application of Zones, Overlays and Provisions 74.01
	Operation of the Planning Policy Framework 71.02	What Area is Covered by this Planning Scheme? 72.02	Sign Terms 73.02	New clause Further Strategic Work 74.02
	Operation of Zones 71.03	What does this Planning Scheme Consist of? 72.03	Land Use Terms 73.03	
	Operation of Overlays 71.04	Documents Incorporated in this Planning Scheme 72.04	Nesting Diagrams 73.04	
	Operation of Particular Provisions 71.05	When did this Planning Scheme Begin? 72.05		
	Operation of VicSmart Applications and Process 71.06	Effect of this Planning Scheme 72.06		
		Determination of Boundaries 72.07		
		New clause Background Documents 72.08		