

# VICTORIAN PLANNING SYSTEM MINISTERIAL ADVISORY COMMITTEE



**State Government** response to the key findings of the initial report

May 2012

# MINISTER'S FOREWORD



I am pleased to release the report of the Victorian Planning System Ministerial Advisory Committee, and the Baillieu Government's response to its key findings.

The Committee members have done a comprehensive job, making strong recommendations for long-term reforms that will benefit Victoria.

It is almost unprecedented for a policy review to receive such a huge response - 547 written submissions from individuals, community groups, local councils, peak bodies and businesses. The Committee's meetings with 130 submitters ensured a full analysis of the planning issues facing all sectors of Victoria's community.

Planning reforms to improve Victoria's economic productivity are essential to providing more jobs.

Victorians deserve the best opportunities to start and run a business, to farm productively and to build a house.

We look forward to moving quickly on implementing key recommendations of this report that will improve these opportunities. This document outlines the Government's initial response to the recommendations.

I would like to thank Geoff Underwood for chairing the committee, and Catherine Heggen, David Keenan, Terry Montebello, Jane Nathan and Leigh Phillips for their great work in listening to the Victorian community and providing this important advice to the Government.

**Matthew Guy MLC**  
Minister for Planning

COMMITTEE FINDING		RESPONSE	COMMENT
<b>LEADERSHIP OF PLANNING IN VICTORIA</b>			
<b>A Vision for Victoria</b>			(See Part 7.1)
1	Develop a Vision for Victoria that aligns the medium to long term planning and infrastructure needs of the State	Agree, underway	This is currently under way through the development of a new metropolitan planning strategy and the Regional Growth Plans.
2	Develop the Metropolitan Strategy and associated eight Regional Growth Plans	Agree, underway	As per 1.
3	Align the Vision for Victoria, the Metropolitan Strategy and the eight Regional Growth Plans, and provide a spatial representation of their objectives	Agree, underway	As per 1.
<b>The Role of the Minister</b>			(See Part 7.2)
4	Clearly define the role of the Minister to minimise the need for him or her to be involved in the day to day administration of the planning system	Agree	Consistent with the Liberal Nationals Coalition's Plan for Planning, the role of the Minister in day to day functions of the system should be clarified.
5	Review the <i>Ministerial Powers of Intervention in Planning and Heritage Matters</i> Practice Note (November 2004) to relieve the Minister of the day to day decision making	Agree	The State Government agrees that the 2004 Practice Note needs to be updated to clearly identify matters requiring Ministerial Intervention.
<b>DPCD's Planning Role</b>			(See Part 7.3)
6	Review the role of DPCD and make appropriate structural and management changes to instil a high standard of leadership and advocacy of state strategies and policies	Agree, underway	The State Government agrees with modernising the structures of the Department of Planning and Community Development. This process has already begun.
<b>Local Government's Planning Role</b>			(See Part 7.4)
7	Review the number of times a council needs to make a decision in a planning scheme amendment process	Agree, underway	The State Government is committed to reforming the amendment process and has commenced work on how this will be done.
8	Give more emphasis to the council's primary role in strategic planning. The focus should be the setting of strategic goals and objectives for a municipality	Agree	The State Government is committed to working with local government to improve local policy and decision making, consistent with the Liberal Nationals Coalition's Plan for Planning.
9	Encourage the establishment of bodies that enable a council to delegate decision making powers on selected matters	Agree, underway	Consistent with the Liberal Nationals Coalition's Plan for Planning, legislation will soon be presented to the Victorian Parliament to establish a Planning Application Committee.
10	Councillors to undertake training in the planning system at the beginning of any four year term and throughout the term	Agree, underway	The Municipal Association of Victoria and the Department of Planning and Community Development PLANET training program currently offer various professional development and training opportunities, which will both continue to be encouraged for Councillors.

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COMMITTEE FINDING		RESPONSE	COMMENT
<b>The Role of VCAT</b>			(See Part 7.5)
11	Adequately resource VCAT to reduce the current waiting time for all matters in the Planning and Environment List	Agree, underway	The State Government has provided an injection of \$1 million to cut VCAT waiting lists and is working on additional funding methods to provide greater certainty of funding.
12	Action other findings set out in the VPSMAC Initial Report (such as the proposal that seeks to stream permit applications) so that fewer matters are referred to VCAT for determination	Agree, underway	Consistent with the Liberal Nationals Coalition's Plan for Planning a number of mechanisms are being examined to provide greater clarity to the planning system.
<b>The Role of Planning Panels Victoria</b>			(See Part 7.6)
	Consider changes to the role and operation of PPV, including:	Agree (in part)	While the State Government agrees with the first two recommendations, the third point is not agreed with.
13	<ul style="list-style-type: none"> <li>• PPV to critique amendments at an early stage in the planning scheme amendment process</li> <li>• PPV being more directive in their consideration of submissions at an early stage</li> <li>• Converting panel recommendations to determinations</li> </ul>		Not Agree. The role of planning authorities remains vital.
<b>The Role of Referral Authorities</b>			(See Part 7.7) - See also Part 10.1.3
14	Address the performance of referral authorities as key leaders in the planning system	Agree in principle	Further work is required by Department of Planning and Community Development to investigate this recommendation.
<b>The Role of other Agencies in the Planning System</b>			(See Part 7.8)
15	Make appropriate structural and management changes to foster improved relationships between the various bodies that lead and participate in the planning system	Agree	Continue to foster greater inter government cooperation in planning matters, through Department of Planning and Community Development as the lead agency.

COMMITTEE FINDING		RESPONSE	COMMENT
<b>ARCHITECTURE &amp; STRUCTURE OF THE PLANNING SYSTEM</b>			
<b>The Planning and Environment Act 1987</b>			(See Part 8.1)
16	Replace the current Act with a new Planning Act	Agree in principle	This is a longer term objective.
<b>The Victoria Planning Provisions</b>			(See Part 8.2)
17	<p>Assess the VPP's performance to determine if it continues to fulfil its intended purpose in an efficient and effective manner. Matters to be considered by the Committee in the next part of its work will include:</p> <ul style="list-style-type: none"> <li>• Whether the current structure and composition of the VPP is appropriate?</li> <li>• Are each of the components necessary?</li> <li>• Are other components required?</li> <li>• What are the principles for determining whether a matter belongs in the VPP; and in particular in Clause 52?</li> <li>• Is it possible to avoid or reduce the multi layering of controls?</li> <li>• Can certain elements be presented differently (ie. grouped or compacted) to make them more useable?</li> </ul>	Agree	Further work will be required by the VPSMAC to investigate the role of the VPPs.
<b>The Municipal Strategic Statement</b>			(See Part 8.3)
18	Comprehensively re-examine the MSS, its role, its function and its place within the planning scheme	Agree	As per 17.
19	Take into account that the development of the Metropolitan Strategy and the eight Regional Growth Plans may impact on forthcoming and ongoing MSS reviews	Noted	
<b>Local Planning Policy</b>			(See Part 8.4)
20	Assess the role of Clause 22 local policy and whether it should remain in its current form, (being mindful that any reorganisation of Clause 22 has the capacity to affect the structure of the VPP and planning schemes).	Agree	Further work is required by the VPSMAC to investigate this recommendation.

COMMITTEE FINDING		RESPONSE	COMMENT
<b>ADMINISTRATION OF THE PLANNING SYSTEM IN VICTORIA</b>			
<b>Permit Application Fees and Costs</b>			(See Part 9.1.1)
21	Review the adequacy of the current schedule of application fees	Agreed, underway	
22	As part of the review of the fee schedule, consider the extent to which permit application fees can be used as a financial incentive or a penalty in the planning system to improve the processes, reward good practice and discourage poor practice by both responsible authorities, applicants and third party participants	Not agree	The State Government will not be pursuing this recommendation.
<b>Planning Scheme Amendment Fees and Costs</b>			(See Part 9.1.3) - <i>See also Part 10.2</i>
23	Review all stages in the amendment process to help reduce costs for all parties	Agree	Further work will be required by the VPSMAC to investigate this recommendation.
<b>Enforcement Costs</b>			(See Part 9.1.4) - <i>See also Part 10.3</i>
24	Give consideration to resourcing and authorisation of enforcement officers enabling them to work across municipalities boundaries	Agree in-principle	Further work is needed by the Department of Planning and Community Development.
<b>Infrastructure Charges by Permit Conditions</b>			(See Part 9.2)
25	Give further consideration to the practice of securing infrastructure funding via permit conditions, (Specifically, should there be a return to the ability for a council to seek a contribution from a landowner for the cost of infrastructure where the cost of that infrastructure is to be shared by more than one developer without the need for a development contribution plan)	Agree in-principle	These matters are being considered through the government's review of local developer contributions.
<b>Restrictive Covenants</b>			(See Part 9.3)
26	As a first step, remove the legislative block (section 61(4) of the Act) to the grant of a planning permit until a restrictive covenant is varied	Not agree	
27	Further examine the recommendations of the Victorian Law Reform Commission in its report on easements and covenants (Final Report 22)	Not agree	
<b>Section 173 Agreements</b>			(See Part 9.4)
28	Analyse the role and processes associated with section 173 agreements, with the objective being to:	Agree	The State Government agrees that further analysis is required. This will be a longer term consideration by the Department of Planning and Community Development.
29	Explain where agreements should and should not be used	Agree	As per 28.
30	Streamline the processes associated with creating, amending and removing agreements	Agree	As per 28.
<b>Structure of Zones</b>			(See Part 9.5.1)
31	Give further consideration to the structure of zones, including the possibility of	Agree, underway	Consistent with the Liberal Nationals Coalition's Plan for Planning, zone

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allowing local variations			reform is underway.
32	Give early consideration to the review of the Farming Zone	Agree, underway	As per 31.
<b>Operation of Overlays</b>			(See Part 9.5.2)
33	Review the structure of permit triggers within overlays	Agree	Further work will be required by the VPSMAC to investigate this recommendation.
34	Investigate multi-purpose overlays with a view to reducing the need for layering.	Agree	As per 33.
<b>Performance Based Provisions versus Prescriptive Controls</b>			(See Part 9.5.3)
35	Review the current balance in the system that favours flexibility and performance-based controls too heavily, to provide for greater certainty	Agree	Further work is required by the VPSMAC to investigate this recommendation.
<b>Growth Area Planning</b>			(See Part 9.6.1)
36	Give growth area councils the option to prepare a precinct structure plan in the first instance. Make the GAA the planning authority only where a growth area council requests it to do so or the council does not have the expertise or resources to complete the process	Noted	The Precinct Structure Plan process should be further evaluated, including these suggested points. This work will be done by the Department of Planning and Community Development and the Growth Areas Authority, in conjunction with the VPSMAC.
37	Evaluate the precinct structure planning processes that have been finalised to determine how effectively the PSP and planning permit process is being undertaken in the Urban Growth Zone	Noted	As per 36.
38	Investigate a mechanism to improve the delivery of infrastructure to match planning aspirations in growth areas	Noted	As per 36.
<b>Interface Councils</b>			(See Part 9.6.2)
39	Investigate a mechanism to improve the delivery of infrastructure to match planning aspirations in interface areas	Noted	The State Government's review of local development contributions is considering this recommendation.
40	Include a review of permitted land uses within the scope of green wedge management plans to ensure the achievement of strategic objectives	Agree, underway	This recommendation is being conducted as an input in to the new metropolitan planning strategy.
<b>Planning in Rural and Regional Victoria</b>			(See Part 9.8)
41	Adequately resource the preparation of the eight Regional Growth Plans	Agree, underway	
42	Develop a code of practice to exempt temporary events in the rural zones or extend the temporary event provision in Clause 62.03 to address private land	Agree, underway	
<b>PROCESSES WITHIN THE PLANNING SYSTEM IN VICTORIA</b>			
<b>Assessment Streams for Permit Applications</b>			(See Part 10.1.1)
43	Develop a system of planning permit application streams for different land use and or development categories. These streams should align with revised notice	Agree, underway	Consistent with the Liberal Nationals Coalition's Plan for Planning, a code

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	provisions, referral authority procedures and adjusted timelines for decision making		assessment model of planning applications will be implemented soon.
44	Develop a Code Assess process and pilot it in selected municipalities for a variety of buildings and/or works and/or nominated subdivision proposals	Agree	As per 43.
45	Undertake an audit of existing permit triggers in the planning scheme to identify where permit triggers could be reduced	Agree	As per 43 and 44.
<b>Notice Requirements and Material Detriment</b>			(See Part 10.1.2)
46	Clarify that third party rights are not unlimited and make third party rights: <ul style="list-style-type: none"> <li>• proportional to the scale and nature of the permission being sought; and</li> <li>• Relevant to the exercise of discretion prescribed in the planning scheme.</li> </ul>	Noted	
47	Consider aligning notification requirements for each processing path in the Code Assess and Merit Assess streams	Noted	
48	Prescribe notice requirements for different classes of land use and/or development by: <ul style="list-style-type: none"> <li>• enabling the planning scheme to set out notice requirements for different classes of applications</li> <li>• legislative change to section 52 of the Act and to the Regulations</li> </ul>	Agree  Agree  Agree	
49	Review the current provisions of the Act which potentially expose councils to liability (such as section 94) for decisions relating to notice, or failing to give notice, as a consequence of any change to Section 52 of the Act.	Noted	This recommendation will depend on any future review of Section 52 of the Planning and Environment Act.
<b>Referral Processes</b>			(See Part 10.1.3) - <i>See also Part 7.7</i>
50	Consider improvements to the current system of planning referrals, both at the time of a planning permit application and in respect of the subdivision process, including reviewing current practices and/or legislative requirements regarding:	Noted	Further work will be required by the VPSMAC to investigate this recommendation.
51	<ul style="list-style-type: none"> <li>• Timelines for responses to councils;</li> </ul>	Noted	
52	<ul style="list-style-type: none"> <li>• Whether permit conditions or objections to a permit application by a Section 55 referral authority be considered as advisory or mandatory;</li> </ul>	Noted	
53	<ul style="list-style-type: none"> <li>• The use of standard agreements for referrals; and</li> </ul>	Noted	
54	<ul style="list-style-type: none"> <li>• Referral authority participation in the VCAT review process.</li> </ul>	Noted	
<b>Request for Further Information</b>			(See Part 10.1.4)
55	Investigate measures that increased efficiencies and reduce timelines for the processing of a permit application by a suite of statutory and non-statutory measures	Agree	Further work will be required to advise further on this recommendation.

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<b>Amendments to Planning Permits</b>			(See Part 10.1.5)
56	Clarify and reconsider provisions in relation to secondary consent amendments to planning permits	Agree in-principle	Further work is required by the Department of Planning and Community Development to investigate this recommendation.
<b>Planning Scheme Amendment Process</b>			(See Part 10.2)
57	Stream the planning scheme amendment process into different types of amendments along the lines of technical amendments, normal amendments and state significant amendments	Agree	This recommendation will form part of the State Government's reforms to the planning scheme amendment process.
58	Review of all steps in the amendment process with the aim of making the process more efficient	Agree	As per 57.
59	Review the need for authorisation or make it subject to strict time limits (not more than 10 business days) and if time limits are not met, the amendment is deemed to be authorised	Agree	As per 57.
60	Require a person to at least show how the amendment affects them in order to qualify as a submitter	Not agree	
61	Provide for a planning authority to dismiss a submission if it considers it to be irrelevant or vexatious, subject to a right of review	Not agree	
62	Where submission issues are limited, gear the nature of a contested panel hearing towards that limited issue (this may involve a varied hearing process or a consideration of the matter on the papers)	Agree	
63	Review the various decision points required of a council acting as a planning authority so that once an amendment process commences (by exhibition), it must proceed through to at least a panel	Not agree	No changes will be made to this process.
64	Give further consideration to whether a panel's recommendations should be made to the planning authority or directly to the Minister	Not agree	Panel recommendations should go to the planning authority.
<b>Enforcement</b>			(See Part 10.3) - See also Part 9.1.4
65	Ensure all councils provide a planning enforcement function within their municipality	Noted	
66	Make adequate funding available at local and state level to employ regional enforcement officers, with an option for an officer to operate across municipal boundaries	Noted	
67	Modify the powers of entry and inspection in the Planning and Environment Act to match the corresponding power under the Local Government Act	Noted	