

Changes to the gaming provisions in planning schemes

Advisory note

October 2006

This advisory note provides information about changes to the gaming provisions in the Victoria Planning Provisions and planning schemes, including changes to Clauses 19, 52.28 and 72.

Why have the gaming provisions been changed?

The Government made a commitment to improve the input of local councils into the location of gaming machines by requiring a planning permit for all gaming machines. By requiring a planning permit, councils will be able to consult with their community and give consideration to the environmental, social and economic effects of new gaming machines. The gaming provisions have been amended to respond to this commitment.

What has changed?

Planning scheme Clauses 19, 52.28 and 72 have been amended.

The key change is that a planning permit is now required for **all** gaming machines. Previous as-of-right provisions for gaming machines no longer apply.

The operation of the gaming provisions has also been simplified and made consistent with the *Gambling Regulation Act 2003* and the *Liquor Control Reform Act 1998*.

Summary of changes:

Clause 19.02:

Obsolete gaming provisions have been deleted from Clause 19.

Clause 52.28:

- A new purpose and a list of decision guidelines have been introduced in Clause 52.28 to guide discretion.
- The provisions that allowed a gaming machine, without a permit, for up to 25% of a venue's floor space have been deleted. A planning permit is now needed for all gaming machines.
- References to 'restricted area' and 'unrestricted area' have been deleted as these terms are no longer used in the *Gambling Regulation Act 2003*.
- The detailed provisions in relation to pre-existing hotel and club premises in strip shopping centres (those that existed on 19 December 1997) have been deleted.
- The former Schedule to Clause 52.28-5 has been renumbered to 'Clause 52.28-3'.
- The former Schedule to Clause 52.28-6 has been renumbered to 'Clause 52.28-4' and has been reformatted to allow the prohibition of gaming machines to be removed.
- Obsolete gaming definitions of 'hotel' and 'club' have been deleted.

Clause 72:

The definition of 'Gaming machine' has been changed to refer to the *Gambling Regulation Act 2003*. Obsolete or unnecessary terms 'Approved venue', 'Venue operator', 'Restricted area' and 'Unrestricted area' have been deleted.

How will the new gaming provisions operate?

Permit requirement: A permit is required for all gaming machines, (unless previously approved under the *Gambling Regulation Act 2003* or Clauses 52.28-3 and 52.28-4 prohibit a gaming machine).

Shopping complexes: Gaming machines remain prohibited in shopping complexes specified in the schedule to Clause 52.28-3, (former Clause 52.28-5).

Previously approved machines under the *Gambling Regulation Act 2003* are allowed by an exemption.

Strip Shopping Centres: Gaming machines remain prohibited in strip shopping centres specified in the schedule to Clause 52.28-4, (former Clause 52.28-6).

The exemptions for hotels and clubs in strip shopping centres that existed on 19 December 1997 no longer apply. A new exemption applies that allows gaming machines previously approved under the *Gambling Regulation Act 2003*.

The schedule to Clause 52.28-4 in a planning scheme can be amended to remove or add all or part of a strip shopping centre in which a gaming machine is prohibited.

Transitional Provisions: Former gaming provisions apply to:

- applications to the Victorian Commission for Gambling Regulation for approval of premises for gaming, or variation of approval of premises for gaming; and
- requests to the Victorian Commission for Gambling Regulation to amend a venue operator's licence to vary the number of permitted gaming machines for an approved venue.

The transitional provision only applies if a permit was not previously required for the gaming machine in the application or request, (i.e. it only applies to as-of-right gaming machines under the former 'less than 25% rule').

Existing permits for hotels and restricted places of assembly

Prior to the new gaming provisions, planning permits to use and develop land for a hotel or a restricted place of assembly may have been granted. Some of these planning permits may have foreshadowed proposed gaming machines and included endorsed plans or conditions that referred to gaming machines (for example, by showing a gaming room on an endorsed plan or by specifying a maximum number of machines in a permit condition or on an endorsed plan).

At the time, a permit was not required or obtained for gaming machines under the 'less than 25% rule' in former Clauses 52.28-1 and 52.28-2.

A previous permit to use or develop land for a hotel or restricted place of assembly is **not** a permit for a gaming machine, even if the permit makes reference to gaming machines.

Any gaming machines referred to in these permits either require a planning permit or are prohibited in shopping complexes and strip shopping centres, (if the schedule to Clauses 52.28-3 and 52.28-4 impose a prohibition).

The above comments do not apply to a permit under the former gaming provisions to use or develop land for gaming premises or to install or use gaming machines in more than 25% of a venue's floor area. The right to act on these permits applies in the usual way.

What is the role of the Local Planning Policy Framework (LPPF) as it relates to gaming?

Objectives and strategies for the location of gaming machines to respond to local environmental, social and economic considerations can be expressed in the LPPF. Local policy can also direct gaming machines to appropriate locations and premises in a municipality.

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