

Amendment VC60

This advisory note provides information about changes to the *Victoria Planning Provisions (VPP)* and planning schemes made by Amendment VC60.

This advisory note covers the following matters:

- A new state policy, particular provision and definitions for Renewable Energy.
- Changes to the Farming, Rural Conservation and Public Conservation and Resource Zones to include a renewable energy facility as a permit required use.
- Updated wind energy facilities guidelines and definitions of wind energy facility and anemometers.
- A new permit exemption for solar energy facilities attached to buildings – Clause 72.
- A new maritime precinct policy in Clause 12.05 of the State Planning Policy Framework and two new incorporated documents in Clause 12.09 referencing *Our Bays Vision: The Bays and Maritime Initiative* and the *Boating Coastal Action Plan*.
- New policy and provisions regarding river health in Clause 15 and new references to river health in the Land Subject to Inundation Overlay and the Floodway Overlay.
- Updates the incorporated document *Victorian Code for Broiler Farms* and introduces new notice requirements in Clause 52.31.
- A new requirement to give notice to the EPA for certain types of applications in Clause 66.05 and the land use definition for broiler farms updated.
- Clause 52.17 Native vegetation amended to clarify that the extent of the exemption applies to works as well as buildings.
- Clause 64 amended to include provision for subdivision of land in more than one zone.
- A number of minor matters and administrative changes including removal of permit requirements to construct cat cages and other domestic animal enclosures.

Amendment VC60 was gazetted on 21 September 2009.

Renewable energy

The Government's *Renewable Action Plan* July 2006 sets out actions to accelerate the uptake of renewable energy including a supporting regulatory environment. The amendment is also consistent with *Cutting red tape in planning* by removing unnecessary matters from a permit requirement.



The amendment will ensure that a renewable energy facility is recognised as a use under the planning scheme and as an activity that is permitted (permit required) in all appropriate zones.

The introduction of the new provisions follows a consultation process between DPCD and key stakeholders including local government, DSE, DIIRD, DPI and the Clean Energy Council.

The following Clauses are amended or included:

- Clause 15.14 – Renewable energy amended to facilitate the uptake of renewable energy in Victoria and to provide an overarching renewable energy statement.
- Clause 74 – Land use terms amended to include a new land use term, Renewable energy facility. Clause 75 – Nesting diagrams amended to include a new definition Renewable energy facility and a new Renewable energy group.
- Clause 35.06 – Rural Conservation Zone, Clause 35.07 – Farming Zone and Clause 36.03 – Public Conservation and Resource Zone amended to include a renewable energy facility as a permit required use.
- Clause 52.42 – Renewable energy facility. A new particular provision to provide application and decision-making requirements for proponents and decision makers.

Wind energy

The document *Policy and planning guidelines for the development of wind energy facilities in Victoria* has been updated in 2009. The document was updated to meet changes in technology, design and construction of wind energy facilities and an increased understanding of the land use and development issues for these facilities.

The following Clauses are amended:

- Clause 15 - Environment and Clause 81.01 – Table of incorporated documents amended to update the *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria* to reference the 2009 guidelines.

- Clause 52.32 - Wind Energy Facility and the schedule to Clause 61.01 amended to be consistent with the 2009 guidelines.
- Clause 72 General terms and Clause 74 – Land use terms amended to reflect the updated guidelines.

Solar energy systems

The amendment exempts solar energy systems from all buildings except for buildings in a heritage overlay. Previously only solar energy systems associated with dwellings were exempt. This amendment is in keeping with the Government's *Renewable Action Plan* July 2006 and supports the uptake of renewable energy. The amendment is also consistent with *Cutting red tape in planning* by removing unnecessary matters from a permit requirement.

The following Clauses are amended:

- Clause 72 - General Terms, reference to 'solar energy system' removed from the general term 'Domestic services normal to a dwelling'.
- Clause 62.02-2 - amended to include a separate permit exemption for solar energy facilities attached to buildings (including dwellings).

Maritime precincts

The amendment provides policy support in the VPP to the existing Government policy *Our Bays Vision: The Bays and Maritime Initiative*. The changes to the VPP identify maritime precincts around Port Phillip Bay and Western Port, and give statutory support to the government's intent to revitalise the precincts and help align land use and development outcomes. The changes to the VPP are:

- A new maritime precinct policy in clause 12.05 – Maritime precincts.
- Two new reference documents, *Our Bays Vision: The Bays and Maritime Initiative* (Parks Victoria 2009) and *Boating Coastal Action Plan* (Central Coastal Board 2007) in Clause 12.09.



River health

The amendment seeks to clarify the role of water catchment authorities such as Melbourne Water in managing river health in keeping with the *Victorian River Health Strategy* (August 2002). The VPP is amended to include specific reference to river health in the purposes and decision guidelines of overlays where the catchment authorities are referral authorities in the planning scheme. The state policy is also amended to include reference to the regional river health strategies and wetland plans.

The following Clauses are amended:

- Clause 15 – Environment amended to include reference to the river health strategies and regional wetland plans.
- Clause 44.03 - Floodway Overlay and Clause 44.04 - Land Subject to Inundation Overlay amended to include a new purpose and revised decision guideline about river health.

Broiler farms

A review of the *Victorian Code for Broiler Farms* was initiated in 2006. The aim of the review was to ensure that the code remains relevant and reflects industry best practice and environmental standards. The review has undergone a consultative process with industry, local and state government and community stakeholders. The amendment implements the new *Victorian Code for Broiler Farms 2009* (Department of Primary Industries) by amending the following clauses:

- Clause 16.03 – Rural living and rural residential development and Clause 17.06 – Intensive animal industries amended to include references to the new code.
- Clause 52.31 - Broiler farm particular provision amended to reference the new code and introduce new notice requirements.
- Clause 66.05 - Notice provisions amended to include a new requirement to give notice to the EPA for certain types of applications.
- Clause 74 - Land use terms amended to update the land use definition for broiler farms.
- Clause 81.01 – Table of Incorporated Documents amended to update the reference to the new broiler code.

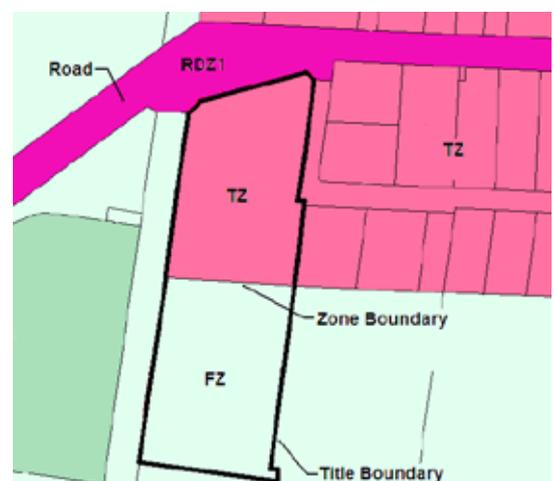
Subdivision of land in more than one zone – New Clause 64.03

The current VPP provisions prohibit many subdivision applications where land is in multiple zones due to the minimum lot size requirements of some zones. This circumstance leads to unintended planning outcomes where land that should be capable of further subdivision due to its zoning is prohibited. The main features of the new provision:

- Remove the prohibition on subdivision of land in more than one zone where one of the lots does not comply with the minimum lot size requirements.
- Provide a requirement that the new subdivision design creates lots that follow zoning boundaries to avoid the new subdivision creating land in more than one zone.
- Provide a requirement that this provision does not allow more lots or smaller lots than allowed for in green wedge land.
- Retain the 'normal' permit process. The amendment allows for permit applications to be made. The permit process is not changed and all applications must be assessed on their individual merits. Notification, referral and third party rights are not affected by this amendment.

Example of where this provision applies

This example illustrates a lot in two zones near the edge of a township. Half the land is in the Township Zone (TZ) where lot sizes may be smaller i.e. there is no minimum lot size. The remainder of the land is in a Farming Zone (FZ) which seeks to avoid smaller lots in rural land by requiring a minimum lot size of 40 hectares.





In this example the land is 25 hectares in total and cannot comply with the minimum subdivision requirement of the Farming Zone. Before the introduction of Clause 64.03 subdivision of the land would have been prohibited. The new provisions will allow an application for more lots in the TZ but not allow any new lots in the FZ zone.

Administrative changes

A number of administrative changes are introduced by Amendment VC60. Some are a continuation of the Government's *Cutting red tape in planning* project by removing unnecessary permit triggers and referral requirements from the planning system. Other changes seek to correct anomalies or make provisions clearer. These changes, while minor, improve the legibility of the planning scheme, making rules clearer and improving planning decisions.

New permit exemption

- New permit exemptions in Clause 62.02-2 to remove the requirement for a planning permit to construct cat cages and runs, birdcages, dog houses and other domestic animal enclosures associated with a dwelling. Currently domestic animal enclosures require a permit where overlay controls such as environmental overlays apply to sites.

Referral requirements

- Updating the referral and notice provisions in Clause 66.03 to require a referral to DPCD under the Urban Growth Zone (UGZ), outside of metropolitan Melbourne. This is in response to the use of the UGZ in areas outside of metropolitan Melbourne.
- Amending Clause 66.02-9 – Use and development referrals to remove the Secretary to the Department administering the *Aboriginal Heritage Act 2006* (Aboriginal Affairs Victoria) as a referral authority for extractive industry. The referral is no longer necessary due to the approvals required by the amended *Aboriginal Heritage Act 2006*.

Corrections and clarifications

- Clause 52.17 – Native vegetation contains an exemption for existing buildings and works in the Farming Zone and Rural Activity Zone which allows the removal of native vegetation for agricultural production. The wording of the exemption in the last dot point is amended to clarify that the extent of the exemption applies to works as well as buildings so that vegetation within 10 metres of a building 'or works' can be removed without a permit.
- Clause 52.13 – Car wash is amended. Previously a permit could only be granted to vary the requirements of the provision if the responsible authority considered a 'better' design solution would result. This wording limited the discretion of the responsible authority and differing design solutions even if deemed acceptable were not able to be approved or supported because they were not demonstrably 'better'. The provision has been amended to clarify that a permit may be granted to vary the requirements if the responsible authority considers that the purposes of the clause are still satisfied. In addition the amendment corrects a wording discrepancy in the car wash particular provision replacing the words '3 wide metres' with '3 metres wide'.
- The residential subdivision provision Clause 56.06-8 – Access and mobility management is amended to correct a wording discrepancy in the residential subdivision provision removing the word 'in' at the top of page 9.
- In Clause 37.07-8 Urban Growth Zone, signage provision, correct the reference to Clause 52.05-8 to read 52.05-9 – Category 3 High amenity areas.
- In Clause 43.04 – Development Plan Overlay and Clause 52.19 – Telecommunications facility replace the term 'appeal' with 'review'.
- In Clause 34.01- Business 1 Zone, the *Dangerous Goods Act 1995* is replaced with the *Dangerous Goods Act 1985*.



Incorporated and reference documents

Amendment VC60 updates the following incorporated documents in Clause 81.01:

- *Victorian Code for Broiler Farms 2009.*
- *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria, 2009.*

Amendment VC60 updates or introduces the following reference documents:

- Clause 15.14 - Renewable energy, reference to the *Renewable Energy Action Plan*, July 2006.
- Clause 44.03 - Floodway overlay, reference to *The Victorian River Health Strategy*, August 2002.
- Clause 12.09 – Geographic strategies, reference to *Our Bays Vision: The Bays and Maritime Initiative* (Parks Victoria 2009).
- Clause 12.09 – Geographic strategies, reference to *Boating Coastal Action Plan* (Central Coastal Board 2007).

More information

More information is available at www.dpcd.vic.gov.au/planning.

- [Publications](#)
- [Victoria Planning Provisions](#)
- [Amendment VC60](#). More details can be found in the explanatory report for the amendment.
- [Incorporated Documents](#)

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